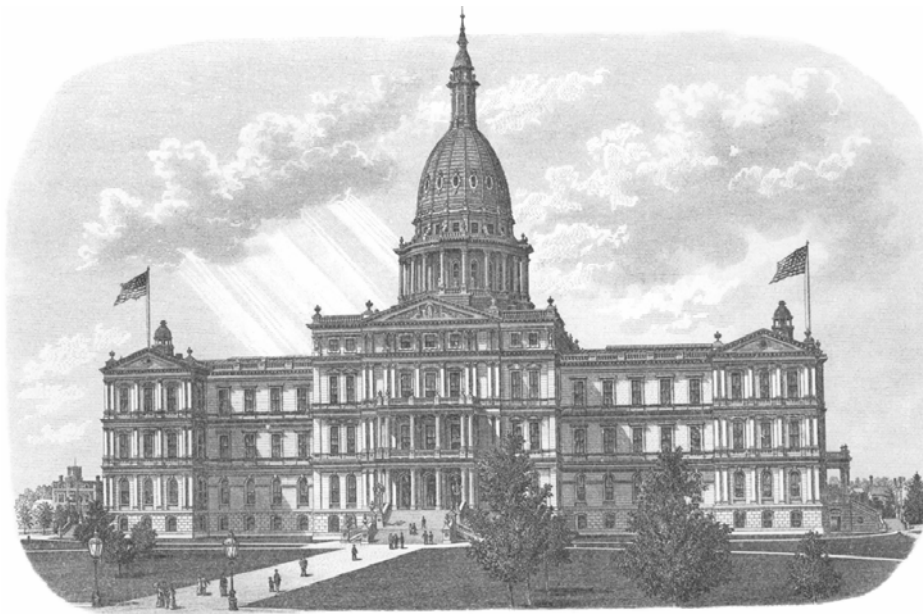


Michigan Register

Issue No. 21– 2008 (Published December 1, 2008)



GRAPHIC IMAGES IN THE MICHIGAN REGISTER

COVER DRAWING

Michigan State Capitol:

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

PAGE GRAPHICS

Capitol Dome:

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19th century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

East Elevation of the Michigan State Capitol:

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

Michigan Register

Published pursuant to § 24.208 of
The Michigan Compiled Laws



Issue No. 21— 2008

(This issue, published December 1, 2008, contains
documents filed from November 1, 2008 to November 15, 2008)

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Peter Plummer, Executive Director, State Office of Administrative Hearings and Rules; **Deidre O'Berry**, Administrative Rules Analyst for Operations and Publications.

Jennifer M. Granholm, Governor



John D. Cherry Jr., Lieutenant Governor

PREFACE

PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The State Office of Administrative Hearings and Rules publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

24.208 Michigan register; publication; cumulative index; contents; public subscription; fee; synopsis of proposed rule or guideline; transmitting copies to office of regulatory reform.

Sec. 8.

(1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
 - (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
 - (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
 - (d) Proposed administrative rules.
 - (e) Notices of public hearings on proposed administrative rules.
 - (f) Administrative rules filed with the secretary of state.
 - (g) Emergency rules filed with the secretary of state.
 - (h) Notice of proposed and adopted agency guidelines.
 - (i) Other official information considered necessary or appropriate by the office of regulatory reform.
 - (j) Attorney general opinions.
 - (k) All of the items listed in section 7(m) after final approval by the certificate of need commission under section 22215 of the public health code, 1978 PA 368, MCL 333.22215.
- (2) The office of regulatory reform shall publish a cumulative index for the Michigan register.
- (3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.
- (4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.
- (5) An agency shall electronically transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

4.1203 Michigan register fund; creation; administration; expenditures; disposition of money received from sale of Michigan register and amounts paid by state agencies; use of fund; price of Michigan register; availability of text on internet; copyright or other proprietary interest; fee prohibited; definition.

Sec. 203.

- (1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.
- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs of preparing, printing, and distributing the Michigan register.
- (4) The department of management and budget shall sell copies of the Michigan register at a price determined by the office of regulatory reform not to exceed the cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

CITATION TO THE MICHIGAN REGISTER

The *Michigan Register* is cited by year and issue number. For example, 2001 MR 1 refers to the year of issue (2001) and the issue number (1).

CLOSING DATES AND PUBLICATION SCHEDULE

The deadlines for submitting documents to the State Office of Administrative Hearings and Rules for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The State Office of Administrative Hearings and Rules is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, State Office of Administrative Hearings and Rules, Ottawa Building - Second Floor, 611 W. Ottawa, P.O. Box 30695, Lansing, MI 48933.

RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year.

Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

SUBSCRIPTIONS AND DISTRIBUTION

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$400.00 per year. Submit subscription requests to: State Office of Administrative Hearings and Rules, Ottawa Building - Second Floor, 611 W. Ottawa, P.O. Box 30695, Lansing, MI 48933. Checks Payable: State of Michigan. Any questions should be directed to the State Office of Administrative Hearings and Rules (517) 335-2484.

INTERNET ACCESS

The *Michigan Register* can be viewed free of charge on the Internet web site of the State Office of Administrative Hearings and Rules: www.michigan.gov/cis/0,1607,7-154-10576_35738---,00.html

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the State Office of Administrative Hearings and Rules Internet web site. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Peter Plummer, Executive Director
State Office of Administrative Hearings and Rules

2008 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 15, 2008	February 1, 2008
2	February 1, 2008	February 15, 2008
3	February 15, 2008	March 1, 2008
4	March 1, 2008	March 15, 2008
5	March 15, 2008	April 1, 2008
6	April 1, 2008	April 15, 2008
7	April 15, 2008	May 1, 2008
8	May 1, 2008	May 15, 2008
9	May 15, 2008	June 1, 2008
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FILED WITH THE SECRETARY OF STATE

MCL 24.208 states in part:

“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(f) Administrative rules filed with the secretary of state.”

ADMINISTRATIVE RULES

2008-037

DEPARTMENT OF EDUCATION

SUPERINTENDENT OF PUBLIC INSTRUCTION

STATE AID TO IMPROVE BASIC COGNITIVE SKILLS

Filed with the Secretary of State on November 7, 2008

This rescission takes effect immediately upon the filing with the Secretary of State.

(By authority conferred on the superintendent of public instruction by section 15 of 1964 PA 287, MCL 388.1015 and Executive Reorganization Order Nos. 1996-6 and 1996-7, MCL 388.993 and MCL 388.994 of the Michigan Compiled Laws)

R 388.221, R 388.222, R 388.223, R 388.224, R 388.225, R 388.226, R 388.228, R 388.229, R 388.230 and R 388.231 of the Administrative Code are rescinded.

R 388.221 Rescinded.

R 388.222 Rescinded.

R 388.223 Rescinded.

R 388.224 Rescinded.

R 388.225 Rescinded.

R 388.226 Rescinded.

R 388.228 Rescinded.

R 388.229 Rescinded.

R 388.230 Rescinded.

R 388.231 Rescinded.

ADMINISTRATIVE RULES

2008-038

DEPARTMENT OF EDUCATION

SUPERINTENDENT OF PUBLIC INSTRUCTION

TRANSCRIPTION OF EDUCATIONAL MATERIALS INTO BRAILLE

Filed with the Secretary of State on November 7, 2008

This rescission takes effect immediately upon the filing with the Secretary of State.

(By authority conferred on the superintendent of public instruction by section 15 of 1964 PA 287, MCL 388.1015 and Executive Reorganization Order Nos. 1996-6 and 1996-7, MCL 388.993 and MCL 388.994 of the Michigan Compiled Laws)

R 388.261, R 388.262, R 388.263, R 388.264 and R 388.265 of the Administrative Code are rescinded.

R 388.261 Rescinded.

R 388.262 Rescinded.

R 388.263 Rescinded.

R 388.264 Rescinded.

R 388.265 Rescinded.

ADMINISTRATIVE RULES

2008-039

DEPARTMENT OF EDUCATION

SUPERINTENDENT OF PUBLIC INSTRUCTION

DISTRIBUTION OF FUNDS FOR ADULT EDUCATION

Filed with the Secretary of State on November 7, 2008

This rescission takes effect immediately upon the filing with the Secretary of State.

(By authority conferred on the superintendent of public instruction by section 15 of 1964 PA 287, MCL 388.1015 and Executive Reorganization Order Nos. 1996-6 and 1996-7, MCL 388.993 and MCL 388.994 of the Michigan Compiled Laws)

R 340.311 of the Administrative Code is rescinded.

R 340.311 Rescinded.

ADMINISTRATIVE RULES

2008-040

DEPARTMENT OF LABOR AND ECONOMIC GROWTH
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
HEARINGS

Filed with the Secretary of State on November 3, 2008

This rescission takes effect immediately upon the filing with the Secretary of State.

(By authority conferred on the state office of administrative hearings and rules by Executive Reorganization Order No. 2005-1, MCL 445.2021)

R 390.621 of the Administrative Code is rescinded.

R 390.621 Rescinded.

**OPINIONS OF THE
ATTORNEY GENERAL**

MCL 14.32 states in part:

“It shall be the duty of the attorney general, when required, to give his opinion upon all questions of law submitted to him by the legislature, or by either branch thereof, or by the governor, auditor general, treasurer or any other state officer”

MCL 24.208 states in part:

“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(j) Attorney general opinions. ”

OPINIONS OF THE ATTORNEY GENERAL

STATE OF MICHIGAN

MIKE COX, ATTORNEY GENERAL

PROSECUTING ATTORNEYS: Process for appointing special prosecuting
COUNTIES: attorney based on disqualifying conflict of
 interest or other inability to serve

CONFLICT OF INTEREST:

If a county prosecuting attorney determines that he or she is disqualified by reason of a conflict of interest or is otherwise unable to perform his or her duties, the prosecuting attorney has a duty to file a petition with the Attorney General requesting the appointment of a special prosecuting attorney under MCL 49.160(1).

Regardless of whether a petition is filed under MCL 49.160(1), the Attorney General has authority under MCL 49.160(2), other statutes including MCL 14.28, MCL 14.30, and MCL 14.101, and the common law, to make an independent determination regarding whether a prosecuting attorney is disqualified or otherwise unable to serve in a matter. If the Attorney General determines that a prosecuting attorney is disqualified or is otherwise unable to serve, the Attorney General may elect to proceed in the matter or may appoint a special prosecuting attorney to perform the duties of the prosecuting attorney in the matter.

Opinion No. 7221

November 7, 2008

Honorable Robert Jones
State Representative
The Capitol
Lansing, MI

You have asked a series of related questions concerning appointment by the Attorney General of a special prosecuting attorney in a situation where the county's prosecuting attorney has a conflict of interest or is otherwise unable to attend to the duties of the office. Your questions relate specifically to MCL 49.160(1), which provides a procedure by which a county prosecuting attorney who determines himself or herself unable to attend to the duties of office shall petition the Attorney General to appoint a special prosecuting attorney, and to MCL 49.160(2), which provides that if the Attorney General

determines that a prosecuting attorney is unable to serve, the Attorney General may proceed in the matter or appoint a special prosecuting attorney.¹

Paraphrasing your first question, you ask whether the Attorney General's authority under MCL 49.160(2) to appoint a special prosecuting attorney is dependent upon a prosecuting attorney first filing a petition under MCL 49.160(1).² In order to fully analyze your questions, it is necessary to examine the present text of MCL 49.160(1) and (2), the text of these provisions before their most recent amendment in 2003, other statutes pertaining to the Attorney General's role as chief law enforcement officer of the State, and historical traditions of practice.

The Michigan Supreme Court has made clear that, when construing a statute, the foremost obligation is to discern and effectuate the intent of the Legislature as expressed in the statutory language. *Halloran v Bhan*, 470 Mich 572, 576-578; 683 NW2d 129 (2004); *Massey v Mandell*, 462 Mich 375, 380-381; 614 NW2d 70 (2000). If the statute's language is clear and unambiguous, it must be assumed that the Legislature intended its plain meaning and the statute must be enforced as written.

These principles must be applied when examining the present text of MCL 49.160, adopted in 2002 PA 706, which involves appointment of a special prosecuting attorney by the Attorney General. MCL 49.160 states in its entirety:

¹ Your question does not ask about the circumstance where a vacancy arises in the elective office of prosecuting attorney. Under Const 1963, art 6, § 14, the "judges of the circuit court may fill a vacancy in an elective office of . . . prosecuting attorney within their respective jurisdictions."

² Your second question asks whether a court may order a prosecuting attorney to file a petition under MCL 49.160(1). Attorneys have ethical obligations under the Michigan Rules of Professional Conduct, and courts have broad inherent power to control the conduct of attorneys appearing before them. But, as explained in *In re Petition for Appointment of Special Prosecutor*, 122 Mich App 632; 332 NW2d 550 (1983), there are constitutional principles involving the separation of powers that must be considered when a prosecuting attorney's discretionary authority is involved. The full exploration of these

(1) If the prosecuting attorney of a county determines himself or herself to be disqualified by reason of a conflict of interest or is otherwise unable to attend to the duties of the office, he or she shall file with the attorney general a petition stating the conflict or the reason he or she is unable to serve and requesting the appointment of a special prosecuting attorney to perform the duties of the prosecuting attorney in any matter in which the prosecuting attorney is disqualified or until the prosecuting attorney is able to serve.

(2) If the attorney general determines that a prosecuting attorney is disqualified or otherwise unable to serve, the attorney general may elect to proceed in the matter or may appoint a prosecuting attorney or assistant prosecuting attorney who consents to the appointment to act as a special prosecuting attorney to perform the duties of the prosecuting attorney in any matter in which the prosecuting attorney is disqualified or until the prosecuting attorney is able to serve.

(3) A special prosecuting attorney appointed under this section is vested with all of the powers of the prosecuting attorney for the purpose of the appointment and during the period of appointment, including the power to investigate and initiate charges. The cost of prosecution, other than personnel costs, in any matter handled by a special prosecuting attorney shall be borne by the office of the prosecuting attorney who has been determined to be disqualified or otherwise unable to serve.

(4) This section does not apply if an assistant prosecuting attorney has been or can be appointed by the prosecuting attorney pursuant to section 18 of chapter 16 of the code of criminal procedure, 1927 PA 175, MCL 776.18, to perform the necessary duties within the constraints of that section or if an assistant prosecuting attorney has been otherwise appointed by the prosecuting attorney pursuant to law and is not disqualified from acting in place of the prosecuting attorney.

MCL 49.160(1) provides that a prosecuting attorney who determines himself or herself to be disqualified by reason of a conflict of interest or who is otherwise unable to attend to the duties of the office¹ "shall file" with the Attorney General a petition requesting the appointment of a special

considerations is beyond the scope of this opinion. The answers to your third and fourth questions are contained in the answer to your first question.

¹ It is worth emphasizing that subsection (4) of MCL 49.160 makes clear that the section does not apply if an assistant prosecuting attorney has been otherwise appointed pursuant to law and is not disqualified from acting in place of the prosecuting attorney. See MCL 49.32, which provides:

The prosecuting attorney shall designate 1 assistant prosecuting attorney as chief assistant prosecuting attorney, who shall in case of the absence, disability or sickness of the prosecuting attorney discharge all the functions and perform all the duties of the office of prosecuting attorney, and in case of the absence, disability or sickness of both the prosecuting attorney and the chief assistant prosecuting attorney, next ranking assistant shall discharge all the functions and perform all the duties of the office of prosecuting attorney.

prosecuting attorney. This imposes a mandatory duty on the prosecuting attorney. "The phrases 'shall' and 'shall not' are unambiguous and denote a mandatory, rather than discretionary action." *Roberts v Mecosta County Gen Hosp*, 466 Mich 57, 65; 642 NW2d 663 (2002).

Significantly, there is nothing in the text of MCL 49.160(2) that cross-references any other provision of the section, unlike subsections (3) and (4), or that requires a petition to be filed before the Attorney General is empowered to determine that a prosecuting attorney is disqualified or is otherwise unable to serve. See *Lansing Mayor v Public Service Comm*, 470 Mich 154, 168; 680 NW2d 840 (2004). Nothing may be read into an unambiguous statute that is not within the manifest intent of the Legislature as derived from the words of the statute itself. *Mecosta County General Hosp*, 466 Mich at 63. Notwithstanding that these are subsections of one provision, the plain text of MCL 49.160(2) states that the Attorney General's power to appoint arises when the Attorney General "determines that a prosecuting attorney is disqualified or otherwise unable to serve"; the Attorney General's authority is not dependent upon the filing of a petition under MCL 49.160(1).

MCL 49.160(2) provides that the Attorney General may "appoint a prosecuting attorney or assistant prosecuting attorney who consents to the appointment to act as a special prosecuting attorney," but it further plainly states that the Attorney General "may elect to proceed in the matter" himself or herself. This latter reference to the broader authority possessed by the Attorney General calls into play well-recognized principles of statutory construction that support a comprehensive approach in analyzing the authority of the Attorney General with respect to appointment of a special prosecuting attorney.

For example, "statutes having a common purpose must be construed in *pari materia* to give the fullest effect to each provision. We must examine all the relevant provisions of the statutes with the

goal of producing a consistent and harmonious result." *Eyde Bros Dev Co v Eaton County Drain Comm'r*, 427 Mich 271, 292-293; 398 NW2d 297 (1986) (citations omitted). As the Michigan Supreme Court explained in *Apsey v Mem Hosp*, 477 Mich 120, 129 n 4; 730 NW2d 695 (2007), quoting *Detroit v Michigan Bell Tel Co*, 374 Mich 543, 558; 132 NW2d 660 (1965):

It is the rule that in construction of a particular statute, or in the interpretation of its provisions, all statutes relating to the same subject, or having the same general purpose, should be read in connection with it, as together constituting one law, although enacted at different times, and containing no reference one to the other.

Words of a statute "must be read in context with the entire act, and the words and phrases used there must be assigned such meanings as are in harmony with the whole of the statute, construed in the light of history and common sense." *Arrowhead Dev Co v Livingston County Rd Comm*, 413 Mich 505, 516; 322 NW2d 702 (1982).

A review of earlier versions of MCL 49.160 dating back to at least 1846 reveals that they provided for the appointment of special prosecuting attorneys by the courts rather than by the Attorney General. For example, in 1890 the Supreme Court in *Sayles v Genesee County Circuit Judge*, 82 Mich 84, 89-90; 46 NW 29 (1890), considered the then current predecessor to MCL 49.160 (How. Stat. § 559), which provided:

"The Supreme Court, and each of the circuit courts, may, whenever there shall be no prosecuting attorney for the county, or when the prosecuting attorney shall be absent from the court, or unable to attend to his duties, if either of said courts shall deem it necessary, by an order to be entered in the minutes of such court, appoint some other attorney at law to perform, for the time being, the duties required by law to be performed in either of said courts by the prosecuting attorney, who shall thereupon be vested with all the powers of such prosecuting attorney for that purpose."

In *Sayles*, the Supreme Court construed this statute as permitting a circuit court to appoint a special prosecuting attorney only for cases that were pending; it did not empower a circuit court to appoint a special prosecuting attorney to investigate a charge of crime or for other purposes. The text

adopted in 1846 remained unchanged until 1978 and was again under review in *People v Davis*, 86 Mich App 514; 272 NW2d 707 (1978). Relying upon *Sayles*, the Court in *Davis* was constrained to conclude that, even when the prosecuting attorney alleged a conflict of interest, a circuit court lacked the authority to appoint a special prosecuting attorney to conduct a criminal investigation. The Court explained that, "[i]f circuit judges are to have this power, it is up to the Michigan Legislature to so provide." 86 Mich App at 522.

Later that year, MCL 49.160 was broken into four subsections by 1978 PA 535. Subsection (1) pertained to appointments by the Supreme Court, Court of Appeals, and circuit court and subsection (2) pertained to appointments by the circuit court to the probate court, district courts, and other courts in the county:

(1) If the prosecuting attorney of a county is disqualified by reason of conflict of interest or is otherwise unable to attend to the duties of the office, the supreme court, the court of appeals or the circuit court for that county, upon a finding to that effect by the court, may appoint an attorney at law as a special prosecuting attorney to perform the duties of the prosecuting attorney in the respective court in any matter in which the prosecuting attorney is disqualified or until such time as the prosecuting attorney is able to serve.

(2) If the prosecuting attorney of a county is disqualified by reason of conflict of interest or is otherwise unable to attend to the duties of the office, the circuit court for that county, upon a finding to that effect by the court, may appoint an attorney at law as a special prosecuting attorney to perform the duties of the prosecuting attorney in the probate court, the district court, or any other court within the county in any matter in which the prosecuting attorney is disqualified or until such time as the prosecuting attorney is able to serve.

In *In re Petition for Appointment of Special Prosecutor*, 122 Mich App 632; 332 NW2d 550 (1983), the Court of Appeals interpreted these 1978 amendments but also emphasized the limitations

that the constitutionally mandated separation of powers doctrine¹ imposed in this area. The Court held that, like its predecessor, the statute did not confer on the circuit court the power to appoint a special prosecuting attorney except for matters pending "in" the courts. The Court then cautioned, however, that because decisions regarding the initiation of criminal charges are discretionary *executive* acts, deference to separation of powers principles requires that "*judicial* interference with the exercise of this discretion is severely limited." 122 Mich App at 636 (emphasis added). According to the Court, the 1978 version of MCL 49.160(1) and (2) "[did] not allow the circuit court to appoint a special prosecutor to perform the duties of the prosecuting attorney in any matters outside of the aforementioned courts, including the investigation of complaints of a crime or for the purpose of initiating criminal charges." 122 Mich App at 635-636.

Thus, prior to its most recent amendment in 2002 PA 706, MCL 49.160 limited judicial appointment of special prosecutors to matters pending "in court," raised issues about compliance with the separation of powers doctrine, and did not require the special prosecutor to have any prosecutorial experience. As quoted earlier, 2002 PA 706 significantly changed the appointment process. It expanded the circumstances under which a special prosecutor could be appointed to include the investigating and other stages of "any matter" and not simply those already pending "in court," and it vested the authority to appoint a special prosecutor in cases of conflicts of interest or where the prosecutor is unable to attend to his or her duties *exclusively* with the Attorney General.

By vesting this authority in the Attorney General alone, MCL 49.160 is consistent with Michigan's long-standing common law tradition and numerous other statutory provisions that recognize

¹ Const 1963, art 3, § 2 states: "The powers of government are divided into three branches; legislative, executive and judicial. No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution."

the Attorney General's unique constitutional role as the State's chief legal advisor and law enforcement officer. For example, MCL 14.28 broadly defines the Attorney General's duty to protect the State's interests in court and expressly grants the Attorney General the right to intervene in matters affecting Michigan's citizens:

The attorney general shall prosecute and defend all actions in the supreme court, in which the state shall be interested, or a party . . . and may, when in his own judgment the interests of the state require it, intervene in and appear for the people of this state in any other court or tribunal, in any cause or matter, civil or criminal, in which the people of this state may be a party or interested.

Similarly, MCL 14.101 reinforces and amplifies the Attorney General's intervention power in any action in any court:

The attorney general of the state is hereby authorized and empowered to intervene in any action heretofore or hereafter commenced in any court of the state whenever such intervention is necessary in order to protect any right or interest of the state, or of the people of the state. Such right of intervention shall exist at any stage of the proceeding, and the attorney general shall have the same right to prosecute an appeal, or to apply for a re-hearing or to take any other action or step whatsoever that is had or possessed by any of the parties to such litigation.

And MCL 14.30 directly addresses the Attorney General's general supervisory and advisory role with respect to Michigan's county prosecutors: "The attorney general shall supervise the work of, consult and advise the prosecuting attorneys, in all matters pertaining to the duties of their offices."

Michigan's common law tradition with respect to the Attorney General's authority is consistent with this statutory history. For example, the Michigan Supreme Court has long recognized that "the office of attorney general is ancient in its origin and history, and it is generally held by the States of the Union that the attorney general has a wide range of powers at common law. These are in addition to his statutory powers." *Mundy v McDonald*, 216 Mich 444, 450-451; 185 NW 877 (1921). The Attorney

General's statutory powers have been broadly construed, as they involve matters of public policy and discretionary action by the State's "chief law officer." *In re Certified Question (Wayne County v Philip Morris, Inc)*, 465 Mich 537, 543-544; 638 NW2d 409 (2002); *People v O'Hara*, 278 Mich 281, 293-294; 270 NW 298 (1936).

This common law tradition extends to the courts' recognition of the Attorney General's role as the State's chief law enforcement officer and his related duties with respect to prosecuting attorneys. In *People v Bussey*, 80 Mich 501, 502; 45 NW 594 (1890), the Court examined a court rule and several statutes, including the predecessor to MCL 14.30 that required the Attorney General to "consult and advise" the prosecuting attorneys but did not yet include express reference to "supervis[ing]." The Court held that "it was always the practice, as it was the duty, of the Attorney General, to conduct and control all criminal cases in this Court," and emphasized that, even after adoption of another statute conferring authority on the prosecuting attorney to appear in criminal cases, "the management of criminal cases is still under his [the Attorney General's] control." 80 Mich at 503. Indeed, because criminal prosecutions are brought in the name of the People of the State of Michigan, the State is a party in all criminal cases and the Attorney General, as "the official representative of the plaintiff in all criminal cases," is not obligated to separately intervene in order to appear. *People v Monaco*, 475 Mich 1222; 716 NW2d 587 (2006); *People v Foster*, 377 Mich 233, 234-235; 140 NW2d 513 (1966). The courts have held that the Attorney General possesses all the powers of a prosecuting attorney in criminal matters unless specifically withdrawn by the Legislature, *Fieger v Cox*, 274 Mich App 449, 453 n 2; 734 NW2d 602 (2007), may bring an original criminal action, *People v Karalla*, 35 Mich App 541, 544; 192 NW2d 676 (1971), and, in the exercise of his supervisory authority, is ultimately the "exclusive representative" of the people in criminal cases in Michigan's courts if there is a disagreement with the local prosecutor over a case. *Foster*, 377 Mich at 234-235 n 1; MCL 14.30. Similarly, "[t]he authority

of the Attorney General to appoint special assistant attorneys general is well established." *Attorney General v Michigan Public Service Comm*, 243 Mich App 487, 490; 625 NW2d 16 (2000).

Returning to your questions, the text of MCL 49.160(2) does not require that a petition be filed before the Attorney General is empowered to determine that a prosecuting attorney is disqualified and to appoint a special prosecuting attorney, and no words may be added to the statute to reach such a conclusion where the Legislature has not elected to include them. Moreover, to read MCL 49.160(2) as being limited by MCL 49.160(1), under which a prosecuting attorney may initiate a disqualification, would be contrary to the other governing principles of statutory interpretation and inconsistent with the long-established history and practice with which the Legislature is deemed to be familiar. In addition, it would fail to read MCL 49.160 in harmony with the common law and other statutes, including MCL 14.30, that expressly recognize the Attorney General's authority to supervise prosecuting attorneys and to unilaterally address issues of concern to the State and the people of this State. Under the *in pari materia* doctrine, all these matters must be considered together as constituting one law in order to distill the Legislature's intent. Doing so discloses a clear meaning. While statutes had initially granted courts limited powers to appoint special prosecuting attorneys in pending cases only, present procedures allow the Attorney General to exercise control in a broad array of circumstances, including where a prosecutor submits a petition under MCL 49.160(1) or where the Attorney General determines that the State or the people have an interest. MCL 14.28, MCL 14.30, and MCL 14.101. The Attorney General may either proceed in the matter himself or herself, or may appoint a special prosecuting attorney to perform the duties of the prosecuting attorney in the matter.

It is my opinion, therefore, that if a county prosecuting attorney determines that he or she is disqualified for reasons of a conflict of interest or is otherwise unable to perform his or her duties, the

prosecuting attorney has a duty to file a petition with the Attorney General requesting the appointment of a special prosecuting attorney under MCL 49.160(1).

It is my further opinion that, regardless of whether a petition is filed under MCL 49.160(1), the Attorney General has authority under MCL 49.160(2), under other statutes including MCL 14.28, MCL 14.30, and MCL 14.101, and under the common law, to make an independent determination regarding whether a prosecuting attorney is disqualified or otherwise unable to serve in a matter. If the Attorney General determines that a prosecuting attorney is disqualified or is otherwise unable to serve, the Attorney General may elect to proceed in the matter or may appoint a special prosecuting attorney to perform the duties of the prosecuting attorney in the matter.

MIKE COX
Attorney General

**CERTIFICATE OF NEED
REVIEW STANDARDS**

MCL 24.208 states in part:

Sec. 8. The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(k) All of the items in section 7(l) after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.2217.

MCL 24.207 states in part:

Sec. 7. "Rule" means an agency regulation, statement, standard, policy, ruling, or instruction of general applicability that implements or applies law enforced or administered by the agency, or that prescribes the organization, procedure, or practice of the agency, including the amendment, suspension, or rescission of the law enforced or administered by the agency. Rule does not include any of the following:

* * *

(l) All of the following, after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.22217:

(i) The designation, deletion, or revision of covered medical equipment and covered clinical services.

(ii) Certificate of need review standards

(iii) Data reporting requirements and criteria for determining health facility viability.

(iv) Standards used by the department of community health in designating a regional certificate of need review agency.

(v) The modification of the 100 licensed bed limitation for short-term nursing care programs set forth in section 22210 of the public health code, 1978 PA 368, MCL 333.22210.

CERTIFICATE OF NEED REVIEW STANDARDS

MICHIGAN DEPARTMENT OF COMMUNITY HEALTH

**CERTIFICATE OF NEED (CON) REVIEW STANDARDS FOR
MEGAVOLTAGE RADIATION THERAPY (MRT) SERVICES/UNITS**

(By authority conferred on the CON Commission by Section 22215 of Act No. 368 of the Public Acts of 1978, as amended, and sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being sections 333.22215, 24.207, and 24.208 of the Michigan Compiled Laws.)

Section 1. Applicability

Sec. 1. (1) These standards are requirements for approval and delivery of services for all projects approved and certificates of need issued under Part 222 of the Code that involve MRT services/units.

(2) An MRT service/unit is a covered clinical service for purposes of Part 222 of the Code. An MRT service/unit previously approved pursuant to Section 7 of these standards now seeking approval to operate pursuant to sections 4, 5, 6, 8, or 9 shall be considered as a person requesting CON approval to begin or expand, as applicable, operation of an MRT service/unit. An MRT unit approved to operate as a special purpose MRT unit seeking approval to operate as a non-special MRT unit shall be considered as a person requesting CON approval to begin or expand, as applicable, operation of a non-special MRT service/unit.

(3) The Department shall use sections 4, 5, 6, 8, 9, and 10, as applicable, in applying Section 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws.

(4) The Department shall use Section 16, as applicable, in applying Section 22225(2)(c) of the Code, being Section 333.22225(2)(c) of the Michigan Compiled Laws.

Section 2. Definitions

Sec. 2. (1) For purposes of these standards:

(a) "Acquisition of an existing MRT service or existing MRT unit(s)" means the acquisition (including purchase, lease, donation, or other comparable arrangement) of an existing MRT service or existing MRT unit(s).

(b) "Begin operation of an MRT service" means the establishment of a non-special MRT unit at a geographic location where an MRT service is not currently provided. The term does not include the acquisition or relocation of an existing MRT service and/or unit(s) or the renewal of a lease.

(c) "Brachytherapy" means the administration of radiation therapy by applying a radioactive material inside or in close proximity to the patient. The material may be contained in various types of apparatus; may be on the surface of plaques; or may be enclosed in tubes, needles, wire, seeds, or other small containers. Common materials that are or have been used for the administration of brachytherapy include but are not limited to radium, Cobalt-60, Cesium-137, Iodine-125, and Iridium-192.

(d) "Cancer treatment program" means a coordinated, multi-disciplinary approach to the treatment of patients with cancer or other neoplasms, which must provide on-site simulation capability, and, either on-site or through written agreements with other providers, all of the following services: (i) access to consultative services from all major disciplines needed to develop a comprehensive treatment plan, (ii) a computer-based treatment planning system, (iii) medical radiation physicist involvement, (iv) MRT capability including electron beam capability, (v) treatment aid fabrication capability, (vi) brachytherapy, (vii) a multi-disciplinary cancer committee, (viii) a tumor registry, (ix) patient care evaluation studies, and (x) cancer prevention and education programs.

(e) "Certificate of Need Commission" or "Commission" means the Commission created pursuant to Section 22211 of the Code, being Section 333.22211 of the Michigan Compiled Laws.

(f) "Code" means Act No. 368 of the Public Acts of 1978, as amended, being Section 333.1101 et seq. of the Michigan compiled Laws.

(g) "Complex treatment visit" means a treatment visit involving three or more treatment sites, tangential fields with wedges, rotational or arc techniques or other special arrangements, or custom blocking.

(h) "Computer based treatment planning system" means a computer system capable of displaying radiation doses and dose distributions within a patient using anatomical data from that patient and using measured radiation output data from the specific unit used to treat the patient. The minimum software requirements for the treatment planning system are an external beam program, an irregular field routine, and a brachytherapy package.

(i) "Course of treatment" means the planned series of visits that compose a plan for treatment of one or more cancer sites for a single patient.

(j) "Cyber knife" means a treatment device that is a frameless special stereotactic radiosurgery unit that consists of three key components: (i) an advanced, lightweight linear accelerator (linac) (this device is used to produce a high energy megavoltage of radiation), (ii) a robot which can point the linear accelerator from a wide variety of angles, and (iii) several x-ray cameras (imaging devices) that are combined with software to track patient position. The cameras obtain frequent pictures of the patient during treatment and use this information to target the radiation beam emitted by the linear accelerator.

(k) "Department" means the Michigan Department of Community Health (MDCH).

(l) "Dosimetrist" means a person who is familiar with the physical and geometric characteristics of the radiation equipment and radioactive sources commonly employed and who has the training and expertise necessary to measure and generate radiation dose distributions and calculations under the direction of a medical physicist and/or a radiation oncologist.

(m) "Driving miles" means the number of miles from the address of the proposed MRT service to the address of the closest existing MRT unit. Driving miles is the number of miles from address to address as identified by use of mapping software that is verifiable by the Department.

(n) "Duplication factor" means the number derived by subtracting the duplication rate from 1.

(o) "Duplication rate" means the percent of new cancer cases in each planning area determined by the Department, Vital Records and Health Data Development Section, that have been reported more than one time to the Michigan Cancer Surveillance Program.

(p) "Equivalent treatment visit" or "ETV" means a unit of measure, based on the type of treatment visit, that reflects the relative average length of time one patient spends in one treatment visit in an MRT unit. Section 13 sets forth how ETVs shall be calculated.

(q) "Existing MRT service" means a CON approved and operational facility and equipment used to provide MRT services including but not limited to the simulator(s), block fabrication materials, and all existing MRT units at a geographic location(s).

(r) "Existing MRT unit" means a CON approved and operational equipment used to provide MRT services.

(s) "Expand an existing MRT service" means adding one additional MRT unit to the number of existing MRT units.

(t) "Full time equivalent" or "FTE" means an individual(s) with normally scheduled working hours of 40 hours per week.

(u) "Gamma knife" means a special stereotactic radiosurgery unit consisting of multiple cobalt sources all simultaneously focused to irradiate cancer or other neoplasms in the brain or cerebrovascular system abnormalities.

(v) "Geographic location" means either (i) the geographic location of a licensed health facility as defined in the CON Review Standards applicable to the type of health facility or (ii) if the location is not a health facility as defined in Part 222 of the Code, a distinct geographic location separate from another location.

(w) "Heavy particle accelerator" means a machine such as a cyclotron which produces beams of high energy particles such as protons, neutrons, pions, carbon ions, or other heavy ions with masses greater than that of an electron.

(x) "High MRT unit" or "HMRT unit" means a heavy particle accelerator or any other MRT unit operating at an energy level equal to or greater than 30.0 million electron volts (megavolts or MEV).

(y) "Hospital MRT service" means an MRT service owned by a hospital or owned by a corporation that is itself wholly owned by hospital(s).

(z) "Image guided radiation therapy" or "IGRT" means the use of in-room imaging to allow precise target localization using ultrasound, implanted fiducial markers or image reconstruction using kV or megavoltage beams. Two-dimensional port films using patient anatomy for localization do not constitute IGRT.

(aa) "Immediately available" means continuous availability of direct communication with the MRT unit in person or by radio, telephone, or telecommunication.

(bb) "Intensity modulated radiation therapy" or "IMRT" means a visit utilizing only the computer controlled multi-leaf collimator part of the CMS definition for IMRT.

(cc) "Intermediate treatment visit" means a treatment visit involving two separate treatment sites, three or more fields to a single treatment site, or the use of special blocking.

(dd) "Intraoperative treatment visit" means a treatment visit where a dose of megavoltage radiation is delivered to a surgically exposed neoplasm or cancerous organ/site using a dedicated unit.

(ee) "Institutional review board" or "IRB" means an institutional review board, as defined by Public Law 93-348, that is regulated by Title 45 CFR 46.

(ff) "Isocenter" means the virtual point in space about which the MRT unit operates and is placed at the center of the tumor for the delivery of the radiation treatment.

(gg) "Licensed hospital site" means either: (i) in the case of a single site hospital, the location of the hospital authorized by license and listed on that licensee's certificate of licensure or (ii) in the case of a hospital with multiple sites, the location of each separate and distinct inpatient site as authorized by licensure.

(hh) "Licensed MRT unit" means an MRT unit that is licensed by the Nuclear Regulatory Commission (NRC) or registered by the Michigan Department of Community Health, Division of Health Facilities and Services, Radiation Safety Section.

(ii) "Medicaid" means title XIX of the social security act, chapter 531, 49 Stat. 620, 1396r-6 and 1396r-8 to 1396v.

(jj) "Medical radiation physicist" means an individual who is (i) board certified or board qualified by the American Board of Radiology in radiological physics or therapeutic radiological

physics or (ii) board certified or board qualified by the American Board of Medical Physics in medical physics with special competence in radiation oncology physics.

(kk) "Megavoltage radiation therapy" or "MRT" means a clinical modality in which patients with cancer, other neoplasms, or cerebrovascular system abnormalities are treated with radiation which is delivered by a MRT unit.

(ll) "MRT program" means one or more MRT services operated at one or more geographic locations under the same administrative unit.

(mm) "MRT service" means the CON approved MRT utilization of a MRT unit(s) at one geographic location.

(nn) "MRT unit" or "unit" means a CON approved linear accelerator; cobalt unit; or other piece of medical equipment operating at an energy level equal to or greater than 1.0 million electron volts (megavolts or MEV) for the purpose of delivering doses of radiation to patients with cancer, other neoplasms, or cerebrovascular system abnormalities.

(oo) "Metropolitan statistical area county" means a county located in a metropolitan statistical area as that term is defined under the "standards for defining metropolitan and micropolitan statistical areas" by the statistical policy office of the office of information and regulatory affairs of the United States office of management and budget, 65 F.R. p. 82238 (December 27, 2000) and as shown in Appendix C.

(pp) "Michigan Cancer Surveillance Program" means the program for the collection and analysis of information on cancer in Michigan operated by the Department, Vital Records and Health Data Development Section, mandated by Act 82 of 1984, being Section 333.2619 of the Michigan Compiled Laws.

(qq) "Micropolitan statistical area county" means a county located in a micropolitan statistical area as that term is defined under the "standards for defining metropolitan and micropolitan statistical areas" by the statistical policy office of the office of information and regulatory affairs of the United States office of management and budget, 65 F.R. p. 82238 (December 27, 2000) and as shown in Appendix C.

(rr) "Multi-disciplinary cancer committee" means a standing committee that (i) includes representatives from the medical specialties or sub-specialties which refer patients to the MRT service; representatives from the specialties of diagnostic radiology, radiation oncology, and pathology; representatives from those who oversee the tumor registry; and representatives from administration, nursing, social services, pharmacy, and rehabilitation; (ii) meets at least on a quarterly basis; and (iii) is responsible for (a) establishing educational and problem oriented multi-disciplinary, facility-wide cancer conferences that include the major anatomic locations of cancer seen at the facility; (b) monitoring, evaluating, and reporting to the medical staff and governing body on the quality of care provided to patients with cancer; and (c) oversight of the applicant's tumor registry for quality control, staging, and abstracting.

(ss) "New cancer case," means a person with any newly diagnosed cancer excluding basal, epithelial, papillary, and squamous cell carcinomas of the skin from other than a genital area.

(tt) "Non-special MRT unit" or "non-special unit" means an MRT unit other than an MRT unit meeting the definition of a special purpose MRT unit or an HMRT unit.

(uu) "Operating room based intraoperative MRT unit" or "OR-based IORT unit" means an MRT unit that is designed to emit only electrons, is located in an operating room in the surgical department of a licensed hospital, and is available for the treatment of a patient undergoing a surgical procedure with megavoltage radiation.

(vv) "Patient care evaluation studies" means a system of patient care evaluation, conducted at least twice annually, that documents the methods used to identify problems and the opportunities to improve patient care. Examples of patient care evaluation studies include nationwide patient care

evaluation studies; hospital wide quality assurance activities; and ongoing monitoring, evaluating, and action planning.

(ww) "Planning area" means the groups of counties shown in Section 17.

(xx) "Relocation of an existing MRT service and/or MRT unit(s)" means a change in the geographic location within the same planning area.

(yy) "Replace/upgrade an existing MRT unit" means an equipment change that results in an applicant operating the same number of non-special and the same number and type of special purpose MRT units before and after the equipment change.

(zz) "Rural county" means a county not located in a metropolitan statistical area or micropolitan statistical areas as those terms are defined under the "standards for defining metropolitan and micropolitan statistical areas" by the statistical policy office of the office of information and regulatory affairs of the United States office of management and budget, 65 F.R., p. 82238 (December 27, 2000) and as shown in Appendix C.

(aaa) "Simple treatment visit" means a treatment visit involving a single treatment site, single treatment field, or parallel opposed fields with the use of no more than simple blocks.

(bbb) "Simulation" means the precise mock-up of a patient treatment with an apparatus that uses a diagnostic x-ray tube and duplicates an MRT unit in terms of its geometrical, mechanical, and optical properties.

(ccc) "Special purpose MRT unit" or "special purpose unit" or "special unit" means any of the following types of MRT units: (i) gamma knife, (ii) dedicated stereotactic radiosurgery unit, (iii) dedicated total body irradiator (TBI), (iv) an OR-based IORT unit, or (v) cyber knife.

(ddd) "Stereotactic treatment visit" means a visit involving the use of a stereotactic guiding device with radiotherapy for the destruction of a precisely defined intracranial and/or extracranial tumor or lesion.

(eee) "Total body irradiator" or "TBI" means a specially modified dedicated cobalt unit certified as a total body irradiator by the Nuclear Regulatory Commission (NRC) or a permanently modified dedicated linear accelerator that uses a very wide beam of gamma rays or x-rays to irradiate the entire body simultaneously.

(fff) "Treatment site" means the anatomical location of the MRT treatment.

(ggg) "Treatment visit" means one patient encounter during which MRT is administered. One treatment visit may involve one or more treatment ports or fields. Each separate encounter by the same patient at different times of the same day shall be counted as a separate treatment visit.

(hhh) "Tumor registry," means a manual or computerized data base containing information about all malignancies and only those that are diagnosed and/or treated at the applicant's facility. The malignancies must be reportable to the Michigan Cancer Surveillance Program as required pursuant to Public Act 82 of 1984, as amended.

(iii) "Very complex treatment visit" means those visits listed in Section 13 that involve special techniques in the performance of the MRT.

(2) The definitions in Part 222 shall apply to these standards.

Section 3. Modification of the Appendices

Sec. 3. (1) The Commission may modify the Duplication Rates and the Duplication Factors set forth in Appendix A based on data obtained from the Michigan Cancer Surveillance Program presented to the Commission by the Department.

(2) The Commission may periodically modify the Distribution of MRT Courses by Treatment Visit Category set forth in Appendix B based on data provided by MRT providers as part of a Department survey presented to the Commission by the Department.

(3) The Commission shall establish the effective date of the modifications made pursuant to subsections (1) or (2).

(4) Modifications made by the Commission pursuant to subsections (1) or (2) shall not require standard advisory committee action, a public hearing, or submittal of the standard to the Legislature and the Governor in order to become effective.

Section 4. Requirements for approval - applicants proposing to begin operation of a MRT service other than an MRT service utilizing an HMRT unit

Sec. 4. (1) An applicant proposing to begin operation of a MRT service, other than an MRT service utilizing an HMRT unit, shall demonstrate that:

- (a) a minimum of 8,000 equivalent treatment visits (ETVs) for each proposed unit results from application of the methodology described in Section 12, and
- (b) the proposed MRT unit is not a special purpose MRT unit.

(2) An applicant that demonstrates all of the following shall not be required to be in compliance with the requirement in subsection (1):

- (a) The site of the proposed MRT service is located in a rural or micropolitan statistical area county.
- (b) The site of the proposed MRT service is 60 driving miles or more from the nearest MRT service.
- (c) The proposed MRT service projects a minimum of 5,500 equivalent treatment visits (ETVs) for each proposed unit based on the application of the methodology described in Section 12.
- (d) The proposed MRT unit is not a special purpose MRT unit.

(3) All applicants under this section shall demonstrate, at the time the application is submitted to the Department, that the following staff, at a minimum, will be provided:

- (a) 1 FTE board-certified or board-qualified physician trained in radiation oncology,
- (b) 1 board-certified or board-qualified radiation physicist certified in therapeutic radiologic physics,
- (c) 1 dosimetrist or physics assistant,
- (d) 2 radiation therapy technologists [registered or eligible by the American Registry of Radiological Technologists (ARRT)], and
- (e) 1 program director who is a board-certified physician trained in radiation oncology who may also be the physician required under subsection (3)(a).

Section 5. Requirements for approval - applicants proposing to expand an existing MRT service other than an MRT service utilizing an HMRT unit

Sec. 5. (1) An applicant proposing to expand an existing MRT service, other than an MRT service utilizing an HMRT unit, with an additional non-special MRT unit shall demonstrate:

- (a) an average of 10,000 ETVs was performed in the most recent 12-month period on each of the applicant's non-special MRT units, and

(b) the additional unit shall be located at the same site, unless the requirements of section 9(2) also have been met.

(2) An applicant proposing to expand an existing MRT service, other than an MRT service utilizing an HMRT unit, with a special purpose MRT unit shall demonstrate each of the following, as applicable:

(a) An average of 8,000 ETVs was performed in the most recent 12-month period on each of the applicant's non-special MRT units at the location where the special purpose unit is to be located.

(b) An applicant proposing to expand by adding a dedicated total body irradiator shall have either (i) a valid CON to operate a bone marrow transplantation program or (ii) a written agreement to provide total body irradiation services to a hospital that has a valid CON to operate a bone marrow transplantation program. Documentation of the written agreement shall be included in the application at the time it is submitted to the Department.

(c) An applicant proposing to expand by adding and operating a dedicated stereotactic radiosurgery unit (including a gamma knife and cyber knife) shall demonstrate that (i) the applicant has, at the time the application is filed, a contractual relationship with a board-eligible or board-certified neurosurgeon(s) trained in stereotactic radiosurgery and (ii) on-site 3-dimensional imaging and 3-dimensional treatment planning capabilities.

(d) An applicant proposing to expand by adding an operating room based intraoperative MRT unit shall demonstrate that (i) the hospital at which the OR-based IORT unit will be located meets the CON review standards for surgical facilities if the application involves the replacement of or an increase in the number of operating rooms and (ii) the OR-based IORT unit to be installed is a linear accelerator with only electron beam capabilities.

Section 6. Requirements for approval - applicants proposing to replace/upgrade an existing MRT unit(s) other than an MRT service utilizing an HMRT unit

Sec. 6. An applicant requesting to replace/upgrade an existing MRT unit(s), other than an HMRT unit, shall demonstrate each of the following, as applicable.

(1) An applicant requesting to replace/upgrade an existing non-special MRT unit which is the only unit at that geographic location, shall demonstrate each of the following:

(a) The unit performed at least 5,500 ETVs in the most recent 12-month period.

(b) The replacement unit will be located at the same geographic location as the unit to be replaced, unless the applicant demonstrates that the requirements of Section 9 have been met.

(2) An applicant requesting to replace/upgrade an existing non-special MRT unit at a MRT service which is the only MRT service in the planning area shall demonstrate each of the following:

(a) Each unit at the geographic location of the unit to be replaced operated at an average of at least 5,500 ETVs in the most recent 12-month period.

(b) The replacement unit will be located at the same geographic location as the unit to be replaced, unless the applicant demonstrates that the requirements of Section 9 have been met.

(3) An applicant, other than an applicant meeting all of the applicable requirements of subsection (1) or (2), requesting to replace/upgrade a non-special MRT unit shall demonstrate each of the following:

(a) Each non-special unit at the geographic location of the unit to be replaced operated at a total of at least 13,000 ETVs for two units and an additional 5,500 ETVs for each additional unit (i.e.,

13,000 ETVs + 5,500 ETVs = 18,500 ETVs for three units, 13,000 ETVs + 5,500 etvs + 5,500 ETVs = 24,000 ETVs for four units, etc.) in the most recent 12-month period.

(b) The replacement unit will be located at the same geographic location as the unit to be replaced, unless the applicant demonstrates that the requirements of Section 9 have been met.

(4) An applicant requesting to replace/upgrade an existing special purpose unit shall demonstrate each of the following, as applicable:

(a) The special purpose unit to be replaced operated at an average of 1,000 ETVs for each OR-based IORT unit, gamma knife, cyber knife, dedicated stereotactic radiosurgery unit, or dedicated total body irradiator during the most recent 12-month period.

(b) The replacement special purpose unit will be located at the same geographic location as the special purpose unit to be replaced, unless the applicant demonstrates that the applicable requirements of sections 5 and 9 have been met.

(c) An applicant proposing to replace a dedicated total body irradiator shall have either (i) a valid CON to operate a bone marrow transplantation program or (ii) a written agreement to provide total body irradiation services to a hospital that has a valid CON to operate a bone marrow transplantation program.

(5) An applicant under this section shall demonstrate that the MRT unit proposed to be replaced/upgraded is fully depreciated according to generally accepted accounting principles; that the existing unit clearly poses a threat to the safety of the public; or that the proposed replacement unit offers technological improvements which enhance quality of care, increase efficiency, and/or reduce operating costs and patient charges.

(6) Equipment that is replaced shall be removed from service and disposed of or rendered considerably inoperable within 30 days of the replacement equipment becoming operational.

Section 7. Requirements for approval - applicants proposing to use MRT units exclusively for research

Sec. 7. (1) An applicant proposing a MRT unit to be used exclusively for research shall demonstrate each of the following:

(a) The applicant operates a therapeutic radiation residency program approved by the American Medical Association, the American Osteopathic Association, or an equivalent organization.

(b) The MRT unit shall operate under a protocol approved by the applicant's IRB.

(c) The applicant agrees to operate the unit in accordance with the terms of approval in Section 16(1)(c)(v), (viii), (xiii); 16(2); 16(4); and 16(5).

(2) An applicant meeting the requirements of subsection (1) shall be exempt from meeting the requirements and terms of sections 4, 5; 6; and 16(1)(c)(i), (ii), (iii), (iv), (vi), (vii), (ix), (x), (xi), and (xii) of these standards.

(3) Equipment that is replaced shall be removed from service and disposed of or rendered considerably inoperable within 30 days of the replacement equipment becoming operational.

Section 8. Requirements for approval - applicants proposing to acquire an existing MRT service or an existing MRT unit(s) other than an MRT service utilizing an HMRT unit

Sec. 8. (1) An applicant proposing to acquire an existing MRT service and its MRT unit(s), other than an MRT service utilizing an HMRT unit, shall demonstrate that it meets all of the following:

(a) The project is limited solely to the acquisition of an existing MRT service and its MRT unit(s).

(b) The project will not change the number or type (special, non-special) of MRT units at the geographic location of the MRT service being acquired unless the applicant demonstrates that the project is in compliance with the requirements of Section 4 or 5, as applicable.

(c) The project will not result in the replacement/upgrade of the MRT unit(s) to be acquired unless the applicant demonstrates that the requirements of Section 6, as applicable, have been met.

(2) An applicant proposing to acquire an existing MRT unit(s) of an existing MRT service, other than an MRT service utilizing an HMRT unit, shall demonstrate that it meets all of the following:

(a) The project is limited solely to the acquisition of an existing MRT unit(s) of an existing MRT service.

(b) The project will not change the number or type (special, non-special) of MRT units at the geographic location of the MRT service being acquired unless the applicant demonstrates that the project is in compliance with the requirements of Section 4 or 5, as applicable.

(c) The project will not result in the replacement/upgrade of an existing MRT unit(s) to be acquired unless the applicant demonstrates that the requirements of Section 6, as applicable, also have been met.

(d) The requirements of Section 4(3) have been met.

Section 9. Requirements for approval - applicants proposing to relocate an existing MRT service and/or MRT unit(s) other than an MRT service utilizing an HMRT unit

Sec. 9. (1) An applicant proposing to relocate an existing MRT service and its MRT unit(s), other than an MRT service utilizing an HMRT unit, shall demonstrate that it meets all of the following:

(a) The relocation of the existing MRT service and its MRT unit(s) will not change the number or type (special, non-special) of MRT units in the planning area, unless subsections (c) and/or (d), as applicable, have been met.

(b) The new geographic location will be in the same planning area as the existing geographic location.

(c) The project will not result in the replacement/upgrade of the existing MRT unit(s) to be relocated unless the applicant demonstrates that the requirements of Section 6, as applicable, have been met.

(d) The project will not result in the expansion of an existing MRT service unless the applicant demonstrates that the requirements of Section 5, as applicable, have been met.

(2) An applicant proposing to relocate an MRT unit(s) of an existing MRT service, other than an MRT service utilizing an HMRT unit, shall demonstrate that it meets all of the following:

(a) The relocation of the MRT unit(s) will not change the number or type (special, non-special) of MRT units in the planning area, unless subsections (c) and/or (d), as applicable, have been met.

(b) The new geographic location will be in the same planning area as the existing geographic location.

(c) The project will not result in the replacement/upgrade of the existing MRT (unit)s to be relocated unless the applicant demonstrates that the requirements of Section 6, as applicable, have been met.

(d) The project will not result in the expansion of an existing MRT service unless the applicant demonstrates that the requirements of Section 5, as applicable, have been met.

(e) For volume purposes, the new site shall remain associated to the original site for a minimum of three years.

(f) For a micropolitan statistical area or rural county, each existing MRT unit at the geographic location of the MRT unit to be relocated operated at an average of at least 5,500 ETVs in the most recent 12-month period. For a metropolitan statistical area county, each existing MRT unit at the geographic location of the MRT unit to be relocated operated at an average of at least 8,000 ETVs in the most recent 12-month period.

(g) The requirements of Section 4(3) have been met.

(h) A special purpose unit cannot be relocated to a site that does not have an existing non-special purpose unit.

Section 10. Requirements for approval – applicants proposing to initiate an MRT service utilizing an HMRT unit

Sec. 10. The use of an HMRT unit represents emerging cancer treatment technology and consequently provides a mixture of both treatment and research uses. This section of the CON Review Standards for MRT Services/Units recognizes the unique nature of this technology.

(1) An applicant proposing to initiate an MRT service utilizing an HMRT unit shall demonstrate each of the following:

(a) An applicant is a single legal entity authorized to do business in the State of Michigan.

(b) An applicant is a collaborative that consists of at least 40% of all Michigan hospital MRT services with more than 30,000 ETVs.

(c) An applicant shall include hospital MRT services from more than one planning area from either or both of the following:

(i) The participating services under subsection (b).

(ii) Hospital MRT services with the highest number of ETVs in a planning area.

(d) For the purposes of this section, ETVs shall be those from the April 30, 2008 list (revised) published by the Department. The Department shall update the list every three years thereafter.

(e) An application under this section shall not be approved if it includes an MRT service described in subsection (i) or (ii) except as provided in subsections (iii) or (iv).

(i) An MRT service that was part of another application under this section.

(ii) An MRT service owned by, under common control of, or has a common parent, as an MRT service under subsection (i).

(iii) The prior application, or the approved CON, under this section were subsequently disapproved, withdrawn.

(iv) The application under this section includes a commitment from the MRT service described in subsection (i) to surrender the CON, or application, described in subsection (i) and that commitment is fulfilled at the time the application under this section is approved.

(f) An application under this section shall not be approved if it includes any of the following:

(i) An MRT service that is approved but not operational, or that has a pending application, for a heavy particle accelerator.

(ii) An MRT service that is owned by, under common control of, or has a common parent, as an MRT service described by subsection (i), unless the application under this section includes a commitment from the MRT service described in subsection (i) to surrender the CON, or application,

described in subsection (i) and that commitment is fulfilled at the time the application under this section is approved.

(g) An application under this section shall not be approved if it includes any of the following:

(i) An MRT service that is approved for a heavy particle accelerator that is operational.

(ii) An MRT service that is owned by, under common control of, or has a common parent, as an MRT service described by subsection (i), unless the application under this section includes a commitment from the MRT service described in subsection (i) to surrender the CON described in subsection (i), and that commitment is fulfilled at the time the HMRT unit approved under this section is operational.

(h) An applicant shall provide documentation of its process, policies and procedures, acceptable to the Department, which will allow any other interested entities to participate in the collaborative utilizing an HMRT unit.

(i) An applicant shall provide an implementation plan, acceptable to the Department, for financing and operating the proposed MRT service utilizing an HMRT unit including, but not limited to, how physician staff privileges, patient review, patient selection, and patient care management shall be determined.

(j) An applicant shall indicate that its proposed HMRT unit will be available to both adult and pediatric patients.

(k) An applicant shall demonstrate that the MRT service utilizing an HMRT unit will have simulation capabilities available for use in treatment planning.

(2) An applicant proposing to initiate an mrt service utilizing an hmrt unit shall also demonstrate compliance with the requirements of section 4(3).

Section 11. Requirements for approval -- all applicants

Sec. 11. An applicant shall provide verification of Medicaid participation. An applicant that is a new provider not currently enrolled in Medicaid shall certify that proof of Medicaid participation will be provided to the Department within six (6) months from the offering of services, if a CON is approved.

Section 12. Methodology for computing the projected number of equivalent treatment visits

Sec. 12. The applicant being reviewed under Section 4 shall apply the methodology set forth in this section in computing the projected number of equivalent treatment visits (ETVs).

(1) Identify the number of new cancer cases documented in accord with the requirements of Section 15.

(2) Multiply the number of new cancer cases identified in subsection (1) by the duplication factor identified in Appendix A, for the planning area in which the proposed unit will be located.

(3) Multiply the number of new cancer cases produced in subsection (2) by 0.55 to determine the estimated number of courses of MRT.

(4) Multiply the estimated number of courses of MRT by 20 to determine the total estimated number of treatment visits.

(5) Determine the number of estimated simple, intermediate, complex, and IMRT treatment visits by multiplying the total estimated number of treatment visits produced in subsection (4) by the percent allocations for each category as set forth in Appendix B.

(6) Multiply the estimated number of treatment visits in the simple category produced in subsection (5) by 1.0.

(7) Multiply the estimated number of treatment visits in the intermediate category produced in subsection (5) by 1.1.

(8) Multiply the estimated number of treatment visits in the complex category produced in subsection (5) by 1.25.

(9) Multiply the estimated number of treatment visits in the IMRT category produced in subsection (5) by 2.5.

(10) Sum the numbers produced in subsections (6) through (9) to determine the total number of estimated ETVs.

Section 13. Equivalent treatment visits

Sec. 13. For purposes of these standards, equivalent treatment visits shall be calculated as follows:

(1) For the time period specified in the applicable section(s) of these standards, assign each actual treatment visit provided to one applicable treatment visit category set forth in Table 1.

(2) The number of treatment visits for each category in the time period specified in the applicable section(s) of these standards shall be multiplied by the corresponding ETV weight in Table 1 to determine the number of equivalent treatment visits for that category for that time period.

(3) The number of ETVs for each category determined pursuant to subsection (2) shall be summed to determine the total ETVs for the time period specified in the applicable section(s) of these standards.

TABLE 1 Equivalent Treatments		
Treatment Visit Category	Non-Special Visit Weight	Special Visit Weight
Simple	1.00	
Intermediate	1.10	
Complex	1.25	
IMRT	2.50	
Very Complex:		

Total Body Irradiation		5.00
Hemi Body Irradiation		4.00
HMRT Unit		5.00
Stereotactic radio-surgery/radio-therapy*		8.00
(non-gamma knife and cyber knife**)		
Gamma Knife**		8.00
Dedicated OR-Based IORT		20.00
All patients under 5 years of age receive a 2.00 additive factor.		
*After the first visit, each additional visit receives 2.5 additional ETVs with a maximum of five visits per course of therapy.		
**After the first isocenter, each additional isocenter receives 4 additional ETVs.		

Section 14. Commitment of new cancer cases

Sec. 14. (1) An applicant proposing to use new cancer cases shall demonstrate all of the following:

(a) Each entity contributing new cancer case data provides, as part of the application at the time it is submitted to the Department, a signed governing body resolution that states that the number of new cancer cases committed to the application shall not be used in support of any other application for an MRT unit(s) for the duration of the MRT service for which the data are being committed.

(b) The geographic locations of all entities contributing new cancer case data are in the same planning area as the proposed MRT service.

(2) An entity currently operating or approved to operate a MRT service shall not contribute new cancer cases to initiate any MRT service.

Section 15. Documentation of new cancer case data

Sec. 15. (1) An applicant required to document volumes of new cancer cases shall submit, as part of its application, documentation from the Department, Vital Records and Health Data Development Section, verifying the number of new cancer cases provided in support of the application for the most recent calendar year for which verifiable data is available from the State Registrar.

(2) New cancer case data supporting an application under these standards shall be submitted to the Michigan Cancer Surveillance Program using a format and media specified in instructions from the State Registrar.

Section 16. Project delivery requirements terms of approval for all applicants

Sec. 16. (1) An applicant shall agree that, if approved, MRT services shall be delivered in compliance with the following applicable terms of CON approval for each geographical location where the applicant operates an MRT unit:

- (a) Compliance with these standards.
- (b) Compliance with applicable safety and operating standards.
- (c) Compliance with the following quality assurance standards:

(i)(A) The non-special MRT units and HMRT units approved pursuant to these standards shall be operating at a minimum average volume of 8,000 ETVs per unit annually by the end of the third full year of operation, and annually thereafter. The following types of special purpose MRT units: OR-based IORT unit, gamma knife, dedicated stereotactic radiosurgery unit and dedicated total body irradiator approved pursuant to these standards shall be operating at a minimum average volume of 1,000 ETVs per special purpose unit annually by the end of the third full year of operation, and annually thereafter. In meeting this requirement the applicant shall not include any treatment visits conducted by MRT units approved exclusively for research pursuant to Section 7.

(B) The non-special MRT units and HMRT units approved pursuant to Section 4(2) of these standards shall be operating at a minimum average volume of 5,500 ETVs per unit annually by the end of the third full year of operation, and annually thereafter. In meeting this requirement, the applicant shall not include any treatment visits conducted by MRT units approved exclusively for research pursuant to Section 7.

(ii) An applicant shall establish a mechanism to assure that (a) the MRT service is staffed so that the MRT unit is operated by physicians and/or radiation therapy technologists qualified by training and experience to operate the unit safely and effectively. For purposes of evaluating this subsection, the Department shall consider it prima facie evidence of a satisfactory quality assurance mechanism as to the operation of the unit if the applicant requires the equipment to be operated by a physician who is board certified or board qualified in either radiation oncology or therapeutic radiology, and/or a radiation therapy technologist certified by the American Registry of Radiological Technologists (ARRT) or the American Registry of Clinical Radiography Technologists (ARCRT). However, the applicant may submit and the department may accept other evidence that the applicant has established and operates a satisfactory quality assurance mechanism to assure that the MRT unit is appropriately staffed, and (b) for the MRT service/program operating a dedicated stereotactic radiosurgery unit or a gamma knife, a neurosurgeon(s) trained in each type of special MRT unit being operated is on the active medical staff of the applicant organization.

(iii) At a minimum, the following staff shall be provided: (a) 1 FTE board-certified or board-qualified physician trained in radiation oncology for each 250 patients treated with MRT annually, (b) 1 board-certified or board-qualified radiation physicist, certified in therapeutic radiologic physics, immediately available during hours of operation, (c) 1 dosimetrist or physics assistant for every 300 patients treated with MRT annually, (d) 2 FTE radiation therapy technologists [registered or eligible by the American Registry of Radiological Technologists (ARRT)] for every MRT unit per shift of operation (not including supervisory time), and (e) 1 FTE program director who is a board-certified physician trained in radiation oncology who may also be the physician required under subsection (iii)(a). For purposes of evaluating this subsection, the department shall consider it prima facie evidence as to the training of the physician(s) if the physician is board certified or board qualified in radiation oncology and/or therapeutic radiology.

(iv) All MRT treatments shall be performed pursuant to a radiation oncologist and at least one radiation oncologist will be immediately available during the operation of the unit(s).

(v) The applicant shall have equipment and supplies within the megavoltage therapy unit/facility to handle clinical emergencies that might occur in the unit. MRT facility staff will be trained in CPR and other appropriate emergency interventions and shall be on-site in the MRT unit at all times when patients are treated. A physician shall be on-site in or immediately available to the MRT unit at all times when patients are treated.

(vi) An applicant shall operate a cancer treatment program. For purposes of evaluating this subsection, the department shall consider it prima facie evidence of meeting this requirement if the applicant submits evidence of a cancer treatment program approved by the American College of Surgeons Commission on Cancer. However, the applicant may submit and the Department may accept other evidence that the applicant operates a cancer treatment program as defined in these standards.

(vii) A MRT service will have simulation capability at the same geographic location of the MRT service/unit.

(viii) An applicant shall participate in the Michigan Cancer Surveillance Program.

(ix) An applicant required to document new cancer cases shall agree to pay the State Registrar's costs for verification of the new cancer case data.

(x) The applicant shall accept referrals for MRT services from all appropriately licensed health care practitioners.

(xi) The applicant, to assure that the MRT unit will be utilized by all segments of the Michigan population, shall: (a) not deny MRT services to any individual based on ability to pay or source of payment, (b) provide MRT services to an individual based on the clinical indications of need for the service, and (c) maintain information by payor and non-paying sources to indicate the volume of care from each source provided annually. Compliance with selective contracting requirements shall not be construed as a violation of this term.

(xii)(A) The applicant shall participate in a data collection network established and administered by the department or its designee. The data may include but is not limited to annual budget and cost information, operating schedules, through-put schedules, demographic and diagnostic information, and the volume of care provided to patients from all payor sources and other data requested by the Department or its designee, and approved by the CON Commission. The applicant shall provide the required data on a separate basis for each separate and distinct geographic location or unit, and separately for non-special MRT units and each type of special purpose MRT unit, as required by the Department; in a format established by the Department; and in a mutually agreed upon media. The Department may elect to verify the data through on-site review of appropriate records.

(B) If the applicant intends to include research treatment visits conducted by a MRT unit other than an MRT unit approved exclusively for research pursuant to Section 7 in its utilization statistics, the applicant shall submit to the department a copy of the research protocol with evidence of approval by the IRB. The applicant shall submit this at the time the applicant intends to include research procedures in its utilization statistics. The applicant shall not report to the Department any treatment visits conducted by an MRT unit approved pursuant to Section 7.

(xiii) The applicant shall provide the Department with a notice stating the first date on which the MRT service and its unit(s) became operational, and such notice shall be submitted to the Department consistent with applicable statute and promulgated rules.

(xiv) The applicant agrees to operate a special purpose MRT unit(s) only for the specific use for which it was approved and to seek approval under a separate CON application to operate the unit as a non-special MRT unit.

(xv) An applicant approved to operate a dedicated total body irradiator that uses cobalt as the source of radiation shall obtain and maintain Nuclear Regulatory Commission certification as a total body irradiator. An applicant approved to operate a dedicated total body irradiator that is a permanently modified linear accelerator, or an HMRT unit, shall meet any requirements specified by the Department, Division of Health Facilities and Services, Radiation Safety Section.

(xvi) An applicant shall participate in Medicaid at least 12 consecutive months within the first two years of operation and continue to participate annually thereafter.

(2) An applicant for an MRT unit under Section 7 shall agree that the services provided by the MRT unit approved pursuant to Section 7 shall be delivered in compliance with the following terms of CON approval:

(a) The capital and operating costs relating to the research use of the MRT unit approved pursuant to Section 7 shall be charged only to a specific research account(s) and not to any patient or third-party payor.

(b) The MRT unit approved pursuant to Section 7 shall not be used for any purposes other than as approved by the IRB unless the applicant has obtained CON approval for the MRT unit pursuant to Part 222 and these standards, other than Section 7.

(3) An applicant for an MRT service utilizing an HMRT unit approved under Section 10 shall agree to deliver the service in compliance with the following additional terms:

(a) All patients treated shall be evaluated for potential enrollment in research studies focusing on the applicability and efficacy of utilizing an HMRT unit for treatment of specific cancer conditions. The number of patients treated, number enrolled in research studies, and the types of cancer conditions involved, shall be provided to the Department as part of the CON Annual Survey.

(b) Upon completion of any study, and authorization by study sponsor, the findings and summary of any research studies, consistent with patient confidentiality, shall be provided to the Department by the applicant.

(c) The MRT service utilizing an HMRT unit shall provide the Department, on an annual basis, following the initiation of the service, with updates to the information provided and approved by the Department pursuant to subsections 10(1)(h), (i), (j), (k), and 10(2).

(d) On an annual basis, following the initiation of the service, the Department will assess the affordability of the project by evaluating the “Hospital Cost Report” and any other applicable information supplied to the Centers of Medicare and Medicaid Services (CMS) and the Michigan Medical Services Administration (MSA).

(e) Upon review, by the Department, of the information submitted under subsections (c) and (d) above, and the Department’s finding that the service has not fulfilled project delivery requirements, the Department may order changes with regard to the provision of the HMRT service to assure fulfillment of project delivery requirements. The Department may elect to verify the information and data through on-site review of appropriate records.

(4) The operation of and referral of patients to the MRT unit shall be in conformance with 1978 PA 368, Sec. 16221, as amended by 1986 PA 319; MCL 333.16221; MSA 14.15 (16221).

(5) The applicable agreements and assurances required by this section shall be in the form of a certification agreed to by the applicant or its authorized agent.

Section 17. Planning areas

Sec. 17. Counties assigned to each planning area are as follows:

PLANNING AREA COUNTIES

1	Livingston Macomb Wayne	Monroe Oakland	St. Clair Washtenaw
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2	Clinton Eaton	Hillsdale Ingham	Jackson Lenawee
3	Barry Berrien Branch	Calhoun Cass Kalamazoo	St. Joseph Van Buren
4	Allegan Ionia Kent Lake	Mason Mecosta Montcalm Muskegon	Newaygo Oceana Osceola Ottawa
5	Genesee	Lapeer	Shiawassee
6	Arenac Bay Clare Gladwin Gratiot	Huron Iosco Isabella Midland Ogemaw	Roscommon Saginaw Sanilac Tuscola
7	Alcona Alpena Antrim Benzie Charlevoix Cheboygan	Crawford Emmet Gd Traverse Kalkaska Leelanau Manistee	Missaukee Montmorency Oscoda Otsego Presque Isle Wexford
8	Alger Baraga Chippewa Delta Dickinson	Gogebic Houghton Iron Keweenaw Luce	Mackinac Marquette Menominee Ontonagon Schoolcraft

Section 18. Effect on prior CON review standards; comparative reviews

Sec. 18. (1) These CON review standards supersede and replace the CON Review Standards for Megavoltage Radiation Therapy (MRT) Services/Units approved by the CON Commission on December 13, 2005 and effective January 20, 2006.

(2) Projects reviewed under these standards shall not be subject to comparative review.

APPENDIX A

DUPLICATION RATES AND FACTORS

The following Duplication Rates and Factors are effective December 11, 2007 and remain in effect until otherwise changed by the Commission.

PLANNING AREA	DUPLICATION RATE	DUPLICATION FACTOR
1	0.21085	0.78915
2	0.23517	0.76483
3	0.11219	0.88781
4	0.25664	0.74336
5	0.21849	0.78151
6	0.34615	0.65385
7	0.21865	0.78135
8	0.12314	0.87686

APPENDIX B

DISTRIBUTION OF MRT COURSES BY TREATMENT VISIT CATEGORY

The following Distribution of MRT Courses by Treatment Visit Category is effective December 11, 2007 and remains in effect until otherwise changed by the Commission.

Treatment Visit Category	Statewid e <u>Percent</u>
Simple	1.6%
Intermediate	.8%
Complex	73.4%
IMRT	24.2%

Source: 2006 Annual Hospital Statistical Survey

APPENDIX C

CON REVIEW STANDARDS
FOR MRT SERVICES

Rural Michigan counties are as follows:

Alcona	Hillsdale	Ogemaw
Alger	Huron	Ontonagon
Antrim	Iosco	Osceola
Arenac	Iron	Oscoda
Baraga	Lake	Otsego
Charlevoix	Luce	Presque Isle
Cheboygan	Mackinac	Roscommon
Clare	Manistee	Sanilac
Crawford	Mason	Schoolcraft
Emmet	Montcalm	Tuscola
Gladwin	Montmorency	
Gogebic	Oceana	

Micropolitan statistical area Michigan counties are as follows:

Allegan	Gratiot	Mecosta
Alpena	Houghton	Menominee
Benzie	Isabella	Midland
Branch	Kalkaska	Missaukee
Chippewa	Keweenaw	St. Joseph
Delta	Leelanau	Shiawassee
Dickinson	Lenawee	Wexford
Grand Traverse	Marquette	

Metropolitan statistical area Michigan counties are as follows:

Barry	Ionia	Newaygo
Bay	Jackson	Oakland
Berrien	Kalamazoo	Ottawa
Calhoun	Kent	Saginaw
Cass	Lapeer	St. Clair
Clinton	Livingston	Van Buren
Eaton	Macomb	Washtenaw
Genesee	Monroe	Wayne
Ingham	Muskegon	

Source:

65 F.R., p. 82238 (December 27, 2000)

Statistical Policy Office
Office of Information And Regulatory Affairs
United States Office of Management And Budget

CERTIFICATE OF NEED REVIEW STANDARDS

MICHIGAN DEPARTMENT OF COMMUNITY HEALTH

CERTIFICATE OF NEED (CON) REVIEW STANDARDS
FOR MAGNETIC RESONANCE IMAGING (MRI) SERVICES

(By authority conferred on the CON Commission by Section 22215 of Act No. 368 of the Public Acts of 1978, as amended, and sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being sections 333.22215, 24.207, and 24.208 of the Michigan Compiled Laws.)

Section 1. Applicability

Sec. 1. (1) These standards are requirements for the approval of the initiation, expansion, replacement, relocation, or acquisition of MRI services and the delivery of services for all projects approved and Certificates of Need issued under Part 222 of the Code that involve magnetic resonance imaging services.

(2) Magnetic resonance imaging is a covered clinical service for purposes of Part 222 of the Code. An MRI unit approved pursuant to Section 9(1) seeking approval to operate pursuant to sections 3, 4, 5, 6, 7, or 8 shall be considered as a person requesting CON approval to initiate, expand, replace, relocate, or acquire a covered clinical service, as applicable.

(3) The Department shall use sections 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, and 18 as applicable, in applying Section 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws.

(4) The Department shall use Section 13, as applicable, in applying Section 22225(2)(c) of the Code, being Section 333.22225(2)(c) of the Michigan Compiled Laws.

Section 2. Definitions

Sec. 2. (1) For purposes of these standards:

(a) "Acquisition of an existing MRI service or existing MRI unit(s)" means obtaining control or possession of an existing fixed or mobile MRI service or existing MRI unit(s) by contract, ownership, lease, or other comparable arrangement.

(b) "Actual MRI adjusted procedures," for purposes of sections 16 and 17, means the number of MRI procedures, adjusted in accordance with the applicable provisions of Section 14, performed on an existing MRI unit, or if an MRI service has two or more MRI units at the same site, the average number of MRI adjusted procedures performed on each unit, for the 12-month period reported on the most recently published "Available MRI Adjusted Procedures List," as of the date an application is deemed complete by the Department.

(c) "Available MRI adjusted procedures," for purposes of Section 16, means the number of MRI adjusted procedures performed by an existing MRI service in excess of 8,000 per fixed MRI unit and 7,000 per mobile MRI unit. For either a fixed or mobile MRI service, the number of MRI units used to compute available MRI adjusted procedures shall include both existing and approved but not yet

operational MRI units. In determining the number of available MRI adjusted procedures, the Department shall use data for the 12-month period reported on the most recently published list of available MRI adjusted procedures as of the date an application is deemed complete by the Department.

In the case of an MRI service that operates, or has a valid CON to operate, more than one fixed MRI unit at the same site, the term means the number of MRI adjusted procedures in excess of 8,000 multiplied by the number of fixed MRI units at the same site. For example, if an MRI service operates, or has a valid CON to operate, two fixed MRI units at the same site, the available number of MRI adjusted procedures is the number that is in excess of 16,000 (8,000 x 2) MRI adjusted procedures.

In the case of a mobile MRI unit, the term means the sum of all MRI adjusted procedures performed by the same mobile MRI unit at all of the host sites combined that is in excess of 7,000. For example, if a

mobile MRI unit serves five host sites, the term means the sum of MRI adjusted procedures for all five host sites combined that is in excess of 7,000 MRI adjusted procedures.

(d) "Central service coordinator" means the organizational unit that has operational responsibility for a mobile MRI unit(s). It shall be a legal entity authorized to do business in the State of Michigan.

(e) "Certificate of Need Commission" or "CON Commission" means the Commission created pursuant to Section 22211 of the Code, being Section 333.22211 of the Michigan Compiled Laws.

(f) "Code" means Act No. 368 of the Public Acts of 1978, as amended, being Section 333.1101 et seq. of the Michigan Compiled Laws.

(g) "Contrast MRI procedure" means an MRI procedure involving either of the following: (i) a procedure following use of a contrast agent or (ii) procedures performed both before and after the use of a contrast agent.

(h) "Dedicated pediatric MRI" means an MRI unit on which at least 80% of the MRI procedures are performed on patients under 18 years of age

(i) "Department" means the Michigan Department of Community Health (MDCH).

(j) "Doctor" means an individual licensed under Article 15 of the Code to engage in the practice of medicine, osteopathic medicine and surgery, chiropractic, dentistry, or podiatry.

(k) "Existing magnetic resonance imaging service" or "existing MRI service" means either the utilization of a CON-approved and operational MRI unit(s) at one site in the case of a fixed MRI service, and in the case of a mobile MRI service, the utilization of a CON-approved and operational mobile MRI unit(s) at each host site, on the date an application is submitted to the Department.

(l) "Existing magnetic resonance imaging unit" or "existing MRI unit" means a CON-approved and operational MRI unit used to provide MRI services.

(m) "Expand an existing fixed MRI service" means an increase in the number of fixed MRI units to be operated by the applicant.

(n) "Expand an existing mobile MRI service" means the addition of a mobile MRI unit that will be operated by a central service coordinator that is approved to operate one or more mobile MRI units as of the date an application is submitted to the Department.

(o) "Group practice," for purposes of Section 17(3)(b), means a group practice as defined pursuant to the provisions of 42 U.S.C. 1395nn (h)(4), commonly known as Stark II, and the Code of Federal Regulations, 42 CFR, Part 411, published in the Federal Register on August 14, 1995, or its replacement.

(p) "Health service area" or "HSA" means the geographic areas set forth in Section 19.

(q) "Host site" means the site at which a mobile MRI unit is authorized by CON to provide MRI services.

(r) "Initiate a fixed MRI service" means begin operation of a fixed MRI service at a site that does not provide or is not CON approved to provide fixed MRI services as of the date an application is submitted to the Department. The term does not include the acquisition or relocation of an existing fixed MRI service or the renewal of a lease.

(s) "Initiate a mobile MRI host site" means the provision of MRI services at a host site that has not received any MRI services within 12 months from the date an application is submitted to the Department.

The term does not include the renewal of a lease.

(t) "Initiate a mobile MRI service" means begin operation of a mobile MRI unit that serves two or more host sites.

The term does not include the acquisition of an existing mobile MRI service or the renewal of a lease.

(u) "Inpatient," for purposes of Section 14 of these standards, means an MRI visit involving an individual who has been admitted to the licensed hospital at the site of the MRI service/unit or in the case of an MRI unit that is not located at that licensed hospital site, an admitted patient transported from a licensed hospital site by ambulance to the MRI service.

(v) "IRB" or "institutional review board" means an institutional review board as defined by Public Law 93-348 that is regulated by Title 45 CFR 46.

(w) "Intra-operative magnetic resonance imaging" or "IMRI" means the integrated use of MRI technology during surgical and interventional procedures within a licensed operative environment.

(x) "Licensed hospital site" means a health facility licensed under Part 215 of the Code. In the case of a single site hospital, it is the location of the facility authorized by license and listed on that licensee's certificate of licensure or in the case of a hospital with multiple sites, the location of each separate and distinct inpatient unit of the health facility as authorized by the licensee's certificate of licensure.

(y) "Magnetic resonance" or "MR" means the analysis of the interaction that occurs between radio frequency energy, atomic nuclei, and strong magnetic fields to produce cross sectional images similar to those displayed by computed tomography (CT) but without the use of ionizing radiation.

(z) "Magnetic resonance imaging adjusted procedure" or "MRI adjusted procedure" means an MRI visit, at an existing MRI service, that has been adjusted in accordance with the applicable provisions of Section 14.

(aa) "Magnetic resonance imaging database" or "MRI database" means the database, maintained by the Department pursuant to Section 13 of these standards, that collects information about each MRI visit at MRI services located in Michigan.

(bb) "Magnetic resonance imaging procedure" or "MRI procedure" means a procedure conducted by an MRI unit approved pursuant to sections 3, 4, 5, 6, 7, 8 or 10 of these standards which is either a single, billable diagnostic magnetic resonance procedure or a procedure conducted by an MRI unit at a site participating with an approved diagnostic radiology residency program, under a research protocol approved by an institutional review board. The capital and operating costs related to the research use are charged to a specific research account and not charged to or collected from third-party payors or patients. The term does not include a procedure conducted by an MRI unit approved pursuant to Section 9(1).

(cc) "Magnetic resonance imaging services" or "MRI services" means either the utilization of an authorized MRI unit(s) at one site in the case of a fixed MRI service or in the case of a mobile MRI service, the utilization of an authorized mobile MRI unit at each host site.

(dd) "Magnetic resonance imaging unit" or "MRI unit" means the magnetic resonance system consisting of an integrated set of machines and related equipment necessary to produce the images and/or spectroscopic quantitative data from scans.

(ee) "Magnetic resonance imaging visit" or "MRI visit" means a single patient visit to an MRI service/unit that may involve one or more MRI procedures.

(ff) "Medicaid" means title XIX of the social security act, chapter 531, 49 Stat. 620, 1396r-6 and 1396r-8 to 1396v.

(gg) "Metropolitan statistical area county" means a county located in a metropolitan statistical area as that term is defined under the "standards for defining metropolitan and micropolitan statistical areas" by the statistical policy office of the office of information and regulatory affairs of the United States office of management and budget, 65 F.R. p. 82238 (December 27, 2000) and as shown in Appendix A.

(hh) "Micropolitan statistical area county" means a county located in a micropolitan statistical area as that term is defined under the "standards for defining metropolitan and micropolitan statistical areas" by the statistical policy office of the office of information and regulatory affairs of the United States office of management and budget, 65 F.R. p. 82238 (December 27, 2000) and as shown in Appendix A.

(ii) "Mobile MRI unit" means an MRI unit operating at two or more host sites and that has a central service coordinator. The mobile MRI unit shall operate under a contractual agreement for the provision of MRI services at each host site on a regularly scheduled basis.

(jj) "Ownership interest, direct or indirect," for purposes of these standards, means a direct ownership relationship between a doctor and an applicant entity or an ownership relationship between a doctor and an entity that has an ownership relationship with an applicant entity.

(kk) "Pediatric patient," for purposes of these standards, except for Section 10, means a patient who is 12 years of age or less.

(ll) "Planning area," for purposes of these standards, means

(i) in the case of a proposed fixed MRI service or unit, the geographic area within a 20-mile radius from the proposed site if the proposed site is not in a rural or micropolitan statistical area county and a 75-mile radius from the proposed site if the proposed site is in a rural or micropolitan statistical area county. For purposes of Section 7(3) of these standards, the planning area shall be measured from the original site at which the MRI service was first initiated.

(ii) in the case of a proposed mobile MRI service or unit, except as provided in subsection (iii), the geographic area within a 20-mile radius from each proposed host site if the proposed site is not in a rural or micropolitan statistical area county and within a 75-mile radius from each proposed host site if the proposed site is in a rural or micropolitan statistical area county.

(iii) in the case of a proposed mobile MRI service or unit meeting the requirement of Section 14(2)(d), the health service area in which all the proposed mobile host sites will be located.

(mm) "Referring doctor," for purposes of these standards, means the doctor of record who ordered the MRI procedure(s) and either to whom the primary report of the results of an MRI procedure(s) is sent or in the case of a teaching facility, the attending doctor who is responsible for the house officer or resident that requested the MRI procedure.

(nn) "Relocate an existing MRI service and/or MRI unit(s)" means a change in the location of an existing MRI service and/or MRI unit(s) from the existing site to a different site within the relocation zone.

(oo) "Relocation zone," for purposes of these standards, means the geographic area that is within a 10-mile radius of the existing site of the MRI service or unit to be relocated.

(pp) "Renewal of a lease" means extending the effective period of a lease for an existing MRI unit that does not involve either replacement of the MRI unit, as defined in Section 2(1)(pp)(i), or (ii) a change in the parties to the lease.

(qq) "Replace an existing MRI unit" means (i) any equipment change involving a change in, or replacement of, the magnet resulting in an applicant operating the same number and type (fixed or

mobile) of MRI units before and after project completion or (ii) an equipment change other than a change in the magnet that involves a capital expenditure of \$750,000 or more in any consecutive 24-month period or (iii) the renewal of a lease. The term does not include an upgrade of an existing MRI service or unit, and it does not include a host site that proposes to receive mobile MRI services from a different central service coordinator if the requirements of Section 3(5)(a)-(e), as applicable, have been met.

(rr) "Research scan" means an MRI scan administered under a research protocol approved by the applicant's institutional review board.

(ss) "Re-sedated patient" means a patient, either pediatric or adult, who fails the initial sedation during the scan time and must be extracted from the unit to rescue the patient with additional sedation.

(tt) "Rural county" means a county not located in a metropolitan statistical area or micropolitan statistical areas as those terms are defined under the "standards for defining metropolitan and micropolitan statistical areas" by the statistical policy office of the office of information regulatory affairs of the United States office of management and budget, 65 F.R. p. 82238 (December 27, 2000) and as shown in Appendix A.

(uu) "Sedated patient" means a patient that meets all of the following:

(i) whose level of consciousness is either conscious-sedation or a higher level of sedation, as defined by the American Association of Anesthesiologists, the American Academy of Pediatrics, the Joint Commission on the Accreditation of Health Care Organizations, or an equivalent definition.

(ii) who is monitored by mechanical devices while in the magnet.

(iii) who requires observation while in the magnet by personnel, other than employees routinely assigned to the MRI unit, who are trained in cardiopulmonary resuscitation (CPR).

(vv) "Site," for purposes of these standards, means

(i) in the case of a licensed hospital site, a location that is part of the licensed hospital site or a location that is contiguous to the licensed hospital site or

(ii) in the case of a location that is not a licensed hospital site, a location at the same address or a location that is contiguous to that address.

(ww) "Special needs patient" means a non-sedated patient, either pediatric or adult, with any of the following conditions: down syndrome, autism, attention deficit hyperactivity disorder (ADHD), developmental delay, malformation syndromes, hunter's syndrome, multi-system disorders, psychiatric disorders, and other conditions that make the patient unable to comply with the positional requirements of the exam.

(xx) "Teaching facility," for purposes of these standards, means a licensed hospital site, or other location, that provides either fixed or mobile MRI services and at which residents or fellows of a training program in diagnostic radiology, that is approved by the Accreditation Council on Graduate Medical Education or American Osteopathic Association, are assigned.

(yy) "Unadjusted MRI scan" means an MRI procedure performed on a single anatomical site as defined by the MRI database and that is not adjusted pursuant to the applicable provisions of Section 14.

(zz) "Upgrade an existing MRI unit" means any equipment change that

(i) does not involve a change in, or replacement of, the magnet; does not result in an increase in the number of MRI units; or does not result in a change in the type of MRI unit (e.g., changing a mobile MRI unit to a fixed MRI unit); and

(ii) involves a capital expenditure of less than \$750,000 in any consecutive 24-month period.

(2) Terms defined in the Code have the same meanings when used in these standards.

Section 3. Requirements for approval of applicants proposing to initiate an MRI service or mobile MRI host site

Sec. 3. (1) An applicant proposing to initiate a fixed MRI service shall demonstrate that 6,000 available MRI adjusted procedures, from within the same planning area as the proposed service/unit, per proposed unit result from application of the methodology in Section 16 of these standards.

(2)(a) An applicant proposing to initiate a mobile MRI service that involves beginning operation of a mobile MRI unit shall demonstrate that a minimum of 5,500 available MRI adjusted procedures, from within the same planning area as the proposed service/unit, per proposed unit result from application of the methodology in Section 16 of these standards.

(b) The applicant, whether the central service coordinator or the host site, must demonstrate that a minimum of 600 available MRI adjusted procedures, from within the same planning area as the proposed service/unit, result from the application of the methodology in Section 16 of these standards, for each proposed host site that

(i) is not located in a rural or micropolitan statistical area county and

(ii) has not received any mobile MRI service within the most recent 12-month period as of the date an application is submitted to the Department.

(c) The applicant, whether the central service coordinator or the host site, must demonstrate that a minimum of 400 available MRI adjusted procedures, from within the same planning area as the proposed service/unit, result from the application of the methodology in Section 16 of these standards for each proposed host site that

(i) is located in a rural or micropolitan statistical area county and

(ii) has not received any mobile MRI service within the most recent 12-month period as of the date an application is submitted to the Department.

(3)(a) An applicant, whether the central service coordinator or a proposed host site, proposing to initiate a mobile MRI host site not in a rural or micropolitan statistical area county, that is to be part of an existing mobile MRI service, must demonstrate that at least 600 available MRI adjusted procedures, from within the same planning area as the proposed service/unit, result from the application of the methodology in Section 16 of these standards for that host site.

(b) An applicant, whether the central service coordinator or a proposed host site, proposing to initiate a mobile MRI host site in a rural or micropolitan statistical area county, that is to be part of an existing mobile MRI service, must demonstrate that at least 400 available MRI adjusted procedures, from within the same planning area as the proposed service/unit, result from the application of the methodology in Section 16 of these standards for that host site.

(4) An applicant that meets all of the following requirements shall not be required to be in compliance with subsection (1):

(a) The applicant is proposing to initiate a fixed MRI service.

(b) The applicant is currently a host site being served by one or more mobile MRI units.

(c) The applicant has received, in aggregate, the following:

(i) at least 6,000 MRI adjusted procedures within the most recent 12-month period for which data, verifiable by the Department, are available or

(ii) at least 4,000 MRI adjusted procedures within the most recent 12-month period for which data, verifiable by the Department, are available, and the applicant meets all of the following:

(A) is located in a county that has no fixed MRI machines that are pending, approved by the Department, or operational at the time the application is deemed submitted;

(B) the nearest fixed MRI machine is located more than 15 radius miles from the application site;

(C) the applicant is a nonprofit licensed hospital site;

(D) the applicant certifies in its CON application, by providing a governing body resolution, that the board of trustees of the facility has performed a due diligence investigation and has determined that the fixed MRI service will be economically viable to ensure provision of safe and appropriate patient access within the community hospital setting.

(d) All of the MRI adjusted procedures provided at the applicant's approved site in the most recent 12-month period, referenced in (c) above, by each mobile MRI service/units from which any of the MRI adjusted procedures are being utilized to meet the minimum 6,000 or 4,000 MRI adjusted procedures shall be utilized to meet the requirements of (c). [For example: If mobile network 19 provided 4,000 adjusted procedures, network 21 provided 2,100, and network 18 provided 1,000, all of the adjusted procedures from network 19 and 21 must be used (i.e., 6,100) but the 1,000 adjusted procedures from network 18 do not need to be used to meet the 6,000 minimum.]

(e) The applicant shall install the fixed MRI unit at the same site as the existing approved host site or at the applicant's licensed hospital site as defined in these standards.

(5) Initiation of a mobile MRI host site does not include the provision of mobile MRI services at a host site if the applicant, whether the host site or the central service coordinator, demonstrates or provides each of the following, as applicable:

(a) The host site has received mobile MRI services from an existing mobile MRI unit within the most recent 12-month period as of the date an application is submitted to the Department.

(b) The addition of a host site to a mobile MRI unit will not increase the number of MRI units operated by the central service coordinator or by any other person.

(c) Notification to the Department of the addition of a host site prior to the provision of MRI services by that mobile MRI unit in accordance with (d).

(d) A signed certification, on a form provided by the Department, whereby each host site for each mobile MRI unit has agreed and assured that it will provide MRI services in accordance with the terms for approval set forth in Section 13 of these standards, as applicable. The central service coordinator also shall identify all current host sites, on this form, that are served by the mobile route as of the date of the signed certification or are committed in writing to be served by the mobile route.

(e) The central service coordinator requires, as a condition of any contract with a host site, compliance with the requirements of these standards by that host site, and the central service coordinator assures compliance, by that host site, as a condition of the CON issued to the central service coordinator.

Section 4. Requirements for approval of an application proposing to expand an existing MRI service

Sec. 4. (1) An applicant proposing to expand an existing fixed MRI service shall demonstrate that its existing fixed MRI units (excluding MRI units approved pursuant to Section 10) have performed at least an average of 11,000 adjusted procedures for each fixed unit based on the application of the methodology in Section 14 and as documented in accordance with Section 15 of these standards.

(a) The additional unit shall be located at the same site unless the requirements of Section 7(2) have been met.

(2) An applicant proposing to expand an existing fixed MRI service approved pursuant to Section 10 shall demonstrate that its existing fixed MRI units have performed at least an average of

3,500 adjusted procedures for each fixed unit, based on the application of the methodology in Section 14 and as documented in accordance with Section 15 of these standards.

(a) The additional unit shall be located at the same site unless the requirements of Section 7(2) have been met.

(3) An applicant proposing to expand an existing mobile MRI service shall demonstrate that 4,000 available MRI adjusted procedures, from within the same planning area as the proposed unit, per proposed additional unit result from application of the methodology in Section 16 of these standards.

(4) An applicant proposing to expand an existing mobile MRI service must provide a copy of the existing or revised contracts between the central service coordinator and each host site(s) that includes the same stipulations as specified in Section 6(2).

Section 5. Requirements for approval of an applicant proposing to replace an existing MRI unit

Sec. 5. An applicant proposing to replace an existing MRI unit shall demonstrate that the proposed project meets each of the following requirements:

(1) Within the most recent 12-month period for which data, verifiable by the Department, are available, at least the applicable minimum number of MRI adjusted procedures set forth in subdivision (a), (b), or (c) has been performed. In meeting this requirement, an applicant shall not include any procedures conducted by an MRI unit approved pursuant to Section 9(1).

(a) Each existing mobile MRI unit on the network has performed in excess of an average of 5,500 MRI adjusted procedures per MRI unit.

(b) Each existing fixed MRI unit at the current site has performed in excess of an average of 6,000 MRI adjusted procedures per MRI unit.

(c) Each existing dedicated pediatric MRI unit at the current site has performed in excess of 3,500 MRI adjusted procedures per MRI unit.

(2) An applicant proposing to replace an existing MRI unit that does not involve a renewal of a lease shall demonstrate that the MRI unit to be replaced is fully depreciated according to generally accepted accounting principles; the existing equipment clearly poses a threat to the safety of the public; or the proposed replacement equipment offers a significant technological improvement which enhances quality of care, increases efficiency, and reduces operating costs.

(3) Equipment that is replaced shall be removed from service and disposed of or rendered considerably inoperable on or before the date that the replacement equipment becomes operational.

(4) An applicant proposing to replace an existing mobile MRI unit must provide a copy of the existing or revised contracts between the central service coordinator and each host site(s) that includes the same stipulations as specified in Section 6(2).

(5) The replacement unit shall be located at the same site unless the requirements of Section 7(2) have been met.

Section 6. Additional requirements for approval of an applicant proposing to initiate a mobile MRI service

Sec. 6. (1) An applicant proposing to initiate a mobile MRI service that involves beginning operation of a mobile MRI unit shall identify the proposed regular route schedule and the procedures for handling emergency situations.

(2) An applicant proposing a mobile MRI service shall submit copies of all proposed contracts related to the mobile MRI service in the CON application submitted by the central service coordinator. The contract shall include at least the following:

(a) A signed certification, on a form provided by the Department, whereby each host site has agreed and assured that it will provide MRI services for each mobile MRI unit in accordance with the terms of approval set forth in Section 13 of these standards, as applicable. The central service coordinator also shall identify all current host sites, on this form, as of the date of the signed certification.

(b) A statement that requires compliance with the requirements of these standards by that host site and assures compliance, by that host site, as a condition of the CON issued to the central service coordinator.

(c) A signed agreement between the central service coordinator and the host site(s) that states that for any host site applying, at any time in the future, for a fixed MRI unit under Section 3(4), that the mobile services at the host site will not cease until the fixed unit is in operation or upon the request of the host site. Further, the applicant applying for the fixed MRI unit must stipulate in the application at the time it is submitted to the Department that it has notified all affected host sites as well as the central service coordinator at least six months prior to beginning operation of the fixed MRI unit.

Section 7. Requirements for approval of an applicant proposing to relocate an existing MRI service and/or MRI unit(s)

Sec 7. (1) An applicant proposing to relocate an existing fixed MRI service and its unit(s) shall demonstrate that the proposed project meets all of the following:

(a) The existing MRI service and its unit(s) to be relocated has been in operation for at least 36 months as of the date an application is submitted to the Department.

(b) The proposed new site of the existing MRI service and its unit(s) to be relocated is in the relocation zone.

(c) The proposed project will not result in the replacement of the existing MRI unit(s) to be relocated unless the applicant demonstrates that the requirements of Section 5, as applicable, have been met.

(d) The proposed project will not result in an increase of the number of MRI units operated by the existing MRI service at the proposed site unless the applicant demonstrates that the requirements of Section 4, as applicable, have been met.

(e) Each existing MRI unit to be relocated performed at least the applicable minimum number of MRI adjusted procedures set forth in Section 13(1)(d)(i) of these standards based on the most recent 12-month period for which the Department has verifiable data.

(f) The applicant agrees to operate the MRI service and its unit(s) in accordance with all applicable project delivery requirements set forth in Section 13 of these standards.

(2) An applicant proposing to relocate a fixed MRI unit of an existing MRI service shall demonstrate that the proposed project meets all of the following:

(a) The existing MRI service from which the MRI unit(s) to be relocated has been in operation for at least 36 months as of the date an application is submitted to the Department.

- (b) The proposed new site for the MRI unit(s) to be relocated is in the relocation zone.
- (c) The proposed project will not result in the replacement of the MRI unit(s) to be relocated unless the applicant demonstrates that the requirements of Section 5, as applicable, have been met.
- (d) The proposed project will not result in an increase of the number of MRI units operated by an existing MRI service at the proposed site unless the applicant demonstrates that the requirements of Section 4, as applicable, have been met.
- (e) Each existing MRI unit at the service from which a unit is to be relocated performed at least the applicable minimum number of MRI adjusted procedures set forth in Section 13(1)(d)(i) of these standards based on the most recent 12-month period for which the Department has verifiable data.
- (f) The applicant agrees to operate the MRI unit(s) at the proposed site in accordance with all applicable project delivery requirements set forth in Section 13 of these standards.
- (g) For volume purposes, the new site shall remain associated to the original site for a minimum of three years.

(3) An applicant that meets all of the following requirements shall be exempt from relocating within the relocation zone:

- (a) The licensed hospital site to which the MRI service is to be relocated and the MRI service at the site from which the MRI service is to be relocated are owned by the same person as defined in Section 1106 of this public act or the same governmental entity.
- (b) The licensed hospital site to which the MRI service is to be relocated is located within the planning area.
- (c) As evidenced in the governing body resolution required in (e), the MRI service to be relocated shall cease at its current location within 24 months after the date the application receives a final decision of approval from the Department or upon the date the service becomes operational at the relocation site, whichever occurs first.
- (d) The MRI service shall be relocated and shall be operational within 24 months after the date the application receives a final decision of approval from the Department or the CON to relocate the MRI service shall expire.
- (e) The CON application includes a resolution of the applicant's governing body that commits to the provisions of (c) and (d).
- (f) The relocation of the MRI service shall not result in the licensed hospital site having more than one fixed MRI unit.

Section 8. Requirements for approval of an applicant proposing to acquire an existing MRI service or an existing MRI unit(s)

(1) An applicant proposing to acquire an existing fixed or mobile MRI service and its unit(s) shall demonstrate that the proposed project meets all of the following:

- (a) The project will not change the number of MRI units at the site of the MRI service being acquired unless the applicant demonstrates that the project is in compliance with the requirements of Section 3 or 4, as applicable.
- (b) The project will not result in the replacement of an MRI unit at the MRI service to be acquired unless the applicant demonstrates that the requirements of Section 5 have been met.
- (c) The applicant agrees to operate the MRI service and its unit(s) in accordance with all applicable project delivery requirements set forth in Section 13 of these standards.
- (d) For the first application proposing to acquire an existing fixed or mobile MRI service on or after July 1, 1997, the existing MRI service and its unit(s) to be acquired shall not be required to be in

compliance with the volume requirements applicable to a seller/lessor on the date the acquisition occurs. The MRI service shall be operating at the applicable volume requirements set forth in Section 13(1)(d)(i) of these standards in the second 12 months after the effective date of the acquisition, and annually thereafter.

(e) For any application proposing to acquire an existing fixed or mobile MRI service and its unit(s), except the first application approved pursuant to subsection (d), an applicant shall be required to document that the MRI service and its unit(s) to be acquired is operating in compliance with the volume requirements set forth in Section 13(1)(d)(i) of these standards applicable to an existing MRI service on the date the application is submitted to the Department.

(2) An applicant proposing to acquire an existing fixed or mobile MRI unit of an existing MRI service shall demonstrate that the proposed project meets all of the following:

(a) The project will not change the number of MRI units at the site of the MRI service being acquired, subject to the applicable requirements under Section 7(2), unless the applicant demonstrates that the project is in compliance with the requirements of Section 3 or 4, as applicable.

(b) The project will not result in the replacement of an MRI unit at the MRI service to be acquired unless the applicant demonstrates that the requirements of Section 5 have been met.

(c) The applicant agrees to operate the MRI unit(s) in accordance with all applicable project delivery requirements set forth in Section 13 of these standards.

Section 9. Requirements for approval of an applicant proposing an MRI unit to be used exclusively for research

Sec. 9. (1) An applicant proposing an MRI unit to be used exclusively for research shall demonstrate each of the following:

(a) The applicant operates a diagnostic radiology residency program approved by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or an equivalent organization.

(b) The MRI unit shall operate under a protocol approved by the applicant's institutional review board.

(c) The applicant agrees to operate the unit in accordance with the terms of approval in Section 13(2).

(2) An applicant meeting the requirements of subsection (1) shall be exempt from meeting the requirements and terms of sections 3, 4, 5, 6, 7, 8, 13 [with the exception of 13(1)(d)(iii)], 15, and 16 of these standards.

Section 10. Requirements for approval of an applicant proposing to establish dedicated pediatric MRI

Sec. 10. (1) An applicant proposing to establish dedicated pediatric MRI shall demonstrate all of the following:

(A) *THE APPLICANT SHALL HAVE EXPERIENCED AT LEAST 7,000 PEDIATRIC (< 18 YEARS OLD) DISCHARGES (EXCLUDING NORMAL NEWBORNS) IN THE MOST RECENT YEAR OF OPERATION.*

(B) *THE APPLICANT SHALL HAVE PERFORMED AT LEAST 5,000 PEDIATRIC (< 18 YEARS OLD) SURGERIES IN THE MOST RECENT YEAR OF OPERATION.*

(c) The applicant shall have an active medical staff, at the time the application is submitted to the Department, that includes, but is not limited to, physicians who are fellowship-trained in the following pediatric specialties:

- (i) pediatric radiology (at least two)
- (ii) pediatric anesthesiology
- (iii) pediatric cardiology
- (iv) pediatric critical care
- (v) pediatric gastroenterology
- (vi) pediatric hematology/oncology
- (vii) pediatric neurology
- (viii) pediatric neurosurgery
- (ix) pediatric orthopedic surgery
- (x) pediatric pathology
- (xi) pediatric pulmonology
- (xii) pediatric surgery
- (xiii) neonatology

(d) The applicant shall have in operation the following pediatric specialty programs at the time the application is submitted to the Department:

- (i) pediatric bone marrow transplant program
- (ii) established pediatric sedation program
- (iii) pediatric open heart program

(2) An applicant meeting the requirements of subsection (1) shall be exempt from meeting the requirements of Section 4, of these standards.

Section 11. Pilot program requirements for approval – applicants proposing to initiate, replace, or acquire a hospital based IMRI

Sec. 11. As a pilot program, an applicant proposing to initiate, replace, or acquire a hospital based IMRI service shall demonstrate that it meets all of the following:

(1) The proposed site is a licensed hospital under Part 215 of the Code.

(2) The proposed site has an existing fixed MRI service that has been operational for the previous 36 consecutive months and is meeting its minimum volume requirements.

(3) The proposed site has an existing and operational surgical service and is meeting its minimum volume requirements pursuant to the CON Review Standards for Surgical Services.

(4) The applicant shall have experienced one of the following:

- (a) at least 1,500 oncology discharges in the most recent year of operation; or
- (b) at least 1,000 neurological surgeries in the most recent year of operation; or
- (c) at least 7,000 pediatric (<18 years old) discharges (excluding normal newborns) and at least 5,000 pediatric (<18 years old) surgeries in the most recent year of operation.

(5) The proposed IMRI unit must be located in an operating room or a room adjoining an operating room allowing for transfer of the patient between the operating room and this adjoining room.

(6) Non-surgical diagnostic studies shall not be performed on an IMRI unit approved under this section unless the patient meets one of the following criteria:

- (a) the patient has been admitted to an inpatient unit; or
- (b) the patient is having the study performed on an outpatient basis, but is in need of general anesthesia or deep sedation as defined by the American Society of Anesthesiologists.

(7) The approved IMRI unit will not be subject to MRI volume requirements.

(8) The applicant shall not utilize the procedures performed on the IMRI unit to demonstrate need or to satisfy MRI CON review standards requirements.

(9) The applicant agrees to operate the IMRI unit in accordance with all applicable project delivery requirements set forth in Section 13 of these standards.

(10) The provisions of Section 11 are part of a pilot program approved by the CON commission and shall expire and be of no further force and effect, and shall not be applicable to any application which has not been submitted by December 31, 2010.

Section 12. Requirements for approval – all applicants

Sec. 12. An applicant shall provide verification of Medicaid participation. An applicant that is a new provider not currently enrolled in Medicaid shall certify that proof of Medicaid participation will be provided to the Department within six (6) months from the offering of services if a CON is approved.

Section 13. Project delivery requirements – terms of approval

Sec. 13. (1) An applicant shall agree that, if approved, MRI services, whether fixed or mobile, shall be delivered and maintained in compliance with the following terms of CON approval for each geographical location where the applicant operates an MRI unit:

- (a) Compliance with these standards.
- (b) Compliance with applicable safety and operating standards for the specific MRI unit approved.
- (c) Compliance with the following quality assurance standards:
 - (i) An applicant shall develop and maintain policies and procedures that establish protocols for the following system performance measures. The protocols shall establish the required benchmarks; identify the testing interval, which shall be at least quarterly; and identify the MRI staff person responsible for testing the system performance measures.
 - (A) Signal-to-noise ratio.
 - (B) Spatial resolution.
 - (C) Slice thickness, location, and separation.
 - (D) Spatial linearity.
 - (E) Field homogeneity and drift.
 - (F) System calibration and stability.
 - (G) Cryogen level and boiloff rate.
 - (H) Radio frequency power monitor.
 - (I) Hard copy image quality.

In addition to the designated staff person, the system performance measures in subdivisions (A) through (F) and (H) also shall be evaluated by an appropriately trained MRI physicist or engineer. The physicist/engineer shall conduct tests of these system performance measures when the MRI unit begins to operate, and annually thereafter. The purpose of the physicist/engineer test shall be to certify to the Department that the MRI unit meets or exceeds all of the system performance specifications of the manufacturer of the MRI unit in effect for that MRI unit at the time of installation or most recent upgrade. The physicist/engineer shall make available for review the periodic system performance measures test data established in this subsection.

(ii) An applicant shall develop and maintain policies, procedures, and protocols for assuring the functionality of each of the following MRI accessories. The protocols shall establish the required benchmarks, identify the testing interval for each accessory, and identify the staff person responsible for testing the system performance measures.

- (A) All surface coils.
- (B) Positioning devices.
- (C) Physiologic triggering/monitoring equipment.
- (D) Patient communication devices.
- (E) Scan table position indicator and drives.
- (F) Data network including storage and retrieval.
- (G) Emergency rundown/shutdown units.
- (H) Hard copy devices.

(iii) An applicant shall develop and maintain policies and procedures that establish protocols for assuring the effectiveness of operation and the safety of the general public, patients, and staff in the MRI service. Each of the following must be included and the staff person responsible for development and enforcement of these policies shall be indicated.

- (A) Access to the MRI service.
- (B) Access to the MRI scan room.
- (C) Patient safety clearance before imaging and safety during imaging.
- (D) Adverse bioeffects, including
 - (1) acoustic hazard.
 - (2) radio frequency burn hazard.
 - (3) specific absorption rates.
 - (4) peripheral nerve stimulation.
 - (5) pregnancy.
 - (6) magnet quench hazard.
- (E) Sedation.
- (F) Contrast administration.
- (G) Treatment of adverse reactions to contrast.
- (H) Patient monitoring for sedation, anesthesia, and unstable patients.
- (I) Patient resuscitation, management of emergencies, maintenance of cardiopulmonary resuscitation equipment, and certification requirements for personnel for either basic or advanced cardiopulmonary resuscitation.

(J) Screening for metallic implants, pacemakers, and metallic foreign bodies, as well as a list of contraindications.

- (K) Mechanism for consultation regarding difficult cases.
- (L) Pulse sequence protocols for specific indications.

(M) Institutional review board policies relating to non-FDA approved pulse sequences or investigational procedures.

- (N) Staff inservice regarding subdivisions (A) through (M).

- (iv) An applicant shall establish a schedule for preventive maintenance for the MRI unit.
- (v) An applicant shall maintain records of the results of the periodic test data required by subdivisions (i) and (ii), including the results of the tests performed by the MRI physicist/engineer required in subdivision (i). An applicant, upon request, shall submit annually to the Department a report of the test data results and evidence of compliance with the applicable project delivery requirements.
- (vi) An applicant shall provide documentation identifying the specific individuals that form the MRI team. At a minimum, the MRI team shall consist of the following professionals:
 - (A) An MRI team leader who shall be responsible for
 - (1) developing criteria for procedure performance.
 - (2) developing protocols for procedure performance.
 - (3) developing a clinical data base for utilization review and quality assurance purposes.
 - (4) transmitting requested data to the Department.
 - (5) screening of patients to assure appropriate utilization of the MRI service.
 - (6) taking and interpretation of scans.
 - (7) coordinating MRI activity at MRI host sites for a mobile MRI unit.
 - (8) identifying and correcting MRI image quality deficiencies.
 - (B) Physicians who shall be responsible for screening of patients to assure appropriate utilization of the MRI service and taking and interpretation of scans. At least one of these physicians shall be a board-certified radiologist.
 - (C) An appropriately trained MRI technician who shall be responsible for taking an MRI scan.
 - (D) An MRI physicist/engineer available as a team member on a full-time, part-time, or contractual basis. An MRI physicist/engineer shall be responsible for at least the following:
 - (1) providing technical specifications for new equipment and assistance in equipment procurement.
 - (2) performing or validating technical performance for system acceptance.
 - (3) establishing preventive maintenance schedules and quality assurance test procedures and recording and reviewing preventive maintenance and quality assurance data.
 - (4) facilitating the repair of acute system malfunctions.
 - (5) training personnel in the MRI service with respect to the technical aspects of MRI scanning and patient and staff safety.
 - (6) assisting in designing and optimizing clinical imaging procedures.
 - (E) System maintenance personnel who shall be responsible for calibrating the MRI system and preventive maintenance at regularly scheduled intervals and who shall compile and submit quality control data to the MRI team leader.
- (vii) An applicant shall document that the MRI team members have the following qualifications:
 - (A) The MRI team leader is a board-certified or board-eligible radiologist, or other physician trained in MRI, who spends greater than 75 percent of his or her professional time in multiple anatomic site medical imaging. The MRI team leader also shall demonstrate that he or she meets the requirements set forth in subsection (B) for a physician who interprets MRI images.
 - (B) Each physician credentialed to interpret MRI scans meets the requirements of each of the following:
 - (1) The physician is licensed to practice medicine in the State of Michigan.
 - (2) The physician has had at least 60 hours of training in MRI physics, MRI safety, and MRI instrumentation in a program that is part of an imaging program accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, and the physician meets the requirements of subdivision (i), (ii), or (iii):

(i) Board certification by the American Board of Radiology, the American Osteopathic Board of Radiology, or the Royal College of Physicians and Surgeons of Canada. If the diagnostic radiology program completed by a physician in order to become board certified did not include at least two months of MRI training, that physician shall document that he or she has had the equivalent of two months of postgraduate training in clinical MRI imaging at an institution which has a radiology program accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association.

(ii) Formal training by an imaging program(s), accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, that included two years of training in cross-sectional imaging and six months training in organ-specific imaging areas.

(iii) A practice in which at least one-third of total professional time, based on a full-time clinical practice during the most recent 5-year period, has been the primary interpretation of MR imaging.

(3) The physician has completed and will complete a minimum of 40 hours every two years of Category in Continuing Medical Education credits in topics directly involving MR imaging.

(4) The physician interprets, as the primary interpreting physician, at least 250 unadjusted MRI scans annually.

(C) An MRI technologist who is registered by the American Registry of Radiologic Technicians or by the American Registry of Magnetic Resonance Imaging Technologists (ARMRIT) and has, or will have within 36 months of the effective date of these standards or the date a technologist is employed by an MRI service, whichever is later, special certification in MRI. If a technologist does not have special certification in MRI within either of the 3-year periods of time, all continuing education requirements shall be in the area of MRI services.

(D) An applicant shall document that an MRI physicist/engineer is appropriately qualified. For purposes of evaluating this subdivision, the Department shall consider it prima facie evidence as to the qualifications of the physicist/engineer if the physicist/engineer is certified as a medical physicist by the American Board of Radiology, the American Board of Medical Physics, or the American Board of Science in Nuclear Medicine. However, the applicant may submit and the Department may accept other evidence that an MRI physicist/engineer is qualified appropriately.

(E) An applicant shall document that system maintenance personnel are qualified on the basis of training and experience to perform the calibration, preventive maintenance, and quality control functions on the specific MRI unit approved.

(viii) The applicant shall have, within the MRI unit/service, equipment and supplies to handle clinical emergencies that might occur in the unit. MRI service staff will be trained in CPR and other appropriate emergency interventions. A physician shall be on-site, in, or immediately available to the MRI unit at all times when patients are undergoing scans.

(ix) In addition to all other applicable terms of approval, each mobile MRI unit shall have an operations committee with members representing each host site, the central service coordinator, and the medical director. This committee shall oversee the effective and efficient use of the MRI unit, establish the normal route schedule, identify the process by which changes shall be made to the schedule, develop procedures for handling emergency situations, and review the ongoing operations of the mobile MRI unit on at least a quarterly basis.

(X) An applicant shall participate in Medicaid at least 12 consecutive months within the first two years of operation and continue to participate annually thereafter.

(d) Compliance with the following terms of approval, as applicable:

(i) MRI units shall be operating at a minimum average annual level of utilization during the second 12 months of operation, and annually thereafter, of 6,000 actual MRI adjusted procedures per unit for fixed MRI services, 5,500 actual MRI adjusted procedures per unit for mobile MRI services,

and a total of 3,500 MRI adjusted procedures per unit for dedicated pediatric MRI. Each mobile host site in a rural or micropolitan statistical area county shall have provided at least a total of 400 adjusted procedures during its second 12 months of operation, and annually thereafter, from all mobile units providing services to the site. Each mobile host site not in a rural or micropolitan statistical area county shall have provided at least a total of 600 adjusted procedures during its second 12 months of operation and annually thereafter, from all mobile units providing services to the site. In meeting these requirements, an applicant shall not include any MRI adjusted procedures performed on an MRI unit used exclusively for research and approved pursuant to Section 9(1) or for an IMRI unit approved pursuant to Section 11.

(ii) The applicant, to assure that the MRI unit will be utilized by all segments of the Michigan population, shall

(A) provide magnetic resonance services to all individuals based on the clinical indications of need for the service and not on ability to pay or source of payment.

(B) maintain information by source of payment to indicate the volume of care from each source provided annually.

Compliance with selective contracting requirements shall not be construed as a violation of this term.

(iii) The applicant shall participate in a data collection network established and administered by the Department or its designee. The data may include, but is not limited to annual budget and cost information, operating schedules, throughout schedules, demographic and diagnostic information, and the volume of care provided to patients from all payor sources, as well as other data requested by the Department or its designee and approved by the Commission. The applicant shall provide the required data in a format established by the Department and in a mutually agreed upon media no later than 30 days following the last day of the quarter for which data are being reported to the Department. An applicant shall be considered in violation of this term of approval if the required data are not submitted to the Department within 30 days following the last day of the quarter for which data are being reported. However, the Department shall allow an applicant up to an additional 60 days to submit the required data if reasonable efforts are made by an applicant to provide the required data. The Department may elect to verify the data through on-site review of appropriate records. Data for an MRI unit approved pursuant to Section 9(1), Section 10, or Section 11 shall be reported separately.

(a) For purposes of Section 11, the data reported shall include, at a minimum, how often the IMRI unit is used and for what type of services, i.e., intra-operative or diagnostic.

(iv) The operation of and referral of patients to the MRI unit shall be in conformance with 1978 PA 368, Sec. 16221, as amended by 1986 PA 319; MCL 333.16221; MSA 14.15 (16221).

(e)(i) The applicant shall provide the Department with a notice stating the first date on which the MRI unit became operational, and such notice shall be submitted to the Department consistent with applicable statute and promulgated rules.

(ii) An applicant who is a central service coordinator shall notify the Department of any additions, deletions, or changes in the host sites of each approved mobile MRI unit within 10 days after the change(s) in host sites is made.

(2) An applicant for an MRI unit under Section 9(1) shall agree that the services provided by the MRI unit approved pursuant to Section 9(1) shall be delivered in compliance with the following terms of CON approval:

(a) The capital and operating costs relating to the research use of the MRI unit approved pursuant to Section 9(1) shall be charged only to a specific research account(s) and not to any patient or third-party payor.

(b) The MRI unit approved pursuant to Section 9(1) shall not be used for any purposes other than as approved by the institutional review board unless the applicant has obtained CON approval for the MRI unit pursuant to Part 222 and these standards, other than Section 9.

(3) The agreements and assurances required by this section shall be in the form of a certification agreed to by the applicant or its authorized agent.

(4) An applicant approved to initiate a fixed MRI service pursuant to Section 3(4) of these standards shall cease operation as a host site and not become a host site for at least 12 months from the date the fixed service and its unit becomes operational.

Section 14. MRI procedure adjustments

Sec. 14. (1) The Department shall apply the following formula, as applicable, to determine the number of MRI adjusted procedures that are performed by an existing MRI service or unit:

- (a) The base value for each MRI procedure is 1.0.
- (b) For each MRI visit involving a pediatric patient, 0.25 shall be added to the base value.
- (c) For each MRI visit involving an inpatient, 0.50 shall be added to the base value.
- (d) For each MRI procedure performed on a sedated patient, 0.75 shall be added to the base value.
- (e) For each MRI procedure performed on a re-sedated patient, 0.25 shall be added to the base value.
- (f) For each MRI procedure performed on a special needs patient, 0.25 shall be added to the base value.
- (g) For each MRI visit that involves both a clinical and research scan on a single patient in a single visit, 0.25 shall be added to the base value.
- (h) For each contrast MRI procedure performed after use of a contrast agent, and not involving a procedure before use of a contrast agent, 0.35 shall be added to the base value.
- (i) For each contrast MRI procedure involving a procedure before and after use of a contrast agent, 1.0 shall be added to the base value.
- (j) For each MRI procedure performed at a teaching facility, 0.15 shall be added to the base value.
- (k) The results of subsections (a) through (j) shall be summed, and that sum shall represent an MRI adjusted procedure.

(2) The Department shall apply not more than one of the adjustment factors set forth in this subsection, as applicable, to the number of MRI procedures adjusted in accordance with the applicable provisions of subsection (1) that are performed by an existing MRI service or unit.

(a) For a site located in a rural or micropolitan statistical area county, the number of MRI adjusted procedures shall be multiplied by a factor of 1.4.

(b) For a mobile MRI unit that serves hospitals and other host sites located in rural, micropolitan statistical area, and metropolitan statistical area counties, the number of MRI adjusted procedures for a site located in a rural or micropolitan statistical area county, shall be multiplied by a factor of 1.4 and for a site located in a metropolitan statistical area county, the number of MRI adjusted procedures shall be multiplied by a factor of 1.0.

(c) For a mobile MRI unit that serves only sites located in rural or micropolitan statistical area counties, the number of MRI adjusted procedures shall be multiplied by a factor of 2.0.

(d) For a mobile MRI unit that serves only sites located in a health service area with one or fewer fixed MRI units and one or fewer mobile MRI units, the number of MRI adjusted procedures shall be multiplied by a factor of 3.5.

(e) Subsection (2) shall not apply to an application proposing a subsequent fixed MRI unit (second, third, etc.) at the same site.

(3) The number of MRI adjusted procedures performed by an existing MRI service is the sum of the results of subsections (1) and (2).

Section 15. Documentation of actual utilization

Sec. 15. Documentation of the number of MRI procedures performed by an MRI unit shall be substantiated by the Department utilizing data submitted by the applicant in a format and media specified by the Department and as verified for the 12-month period reported on the most recently published "Available MRI Adjusted Procedures List" as of the date an application is deemed complete by the Department. The number of MRI procedures actually performed shall be documented by procedure records and not by application of the methodology required in Section 16. The Department may elect to verify the data through on-site review of appropriate records.

Section 16. Methodology for computing the number of available MRI adjusted procedures

Sec. 16. (1) The number of available MRI adjusted procedures required pursuant to Section 3 or 4(2) of these standards shall be computed in accordance with the methodology set forth in this section. In applying the methodology, the following steps shall be taken in sequence, and data for the 12-month period reported on the most recently published "Available MRI Adjusted Procedures List," as of the date an application is deemed complete by the Department, shall be used:

(a) Identify the number of actual MRI adjusted procedures performed by each existing MRI service as determined pursuant to Section 14.

(i) For purposes of computing actual MRI adjusted procedures, MRI adjusted procedures performed on MRI units used exclusively for research and approved pursuant to Section 9(1) and dedicated pediatric MRI approved pursuant to Section 10 shall be excluded.

(II) *FOR PURPOSES OF COMPUTING ACTUAL MRI ADJUSTED PROCEDURES, THE MRI ADJUSTED PROCEDURES, FROM THE HOST SITE ROUTES UTILIZED TO MEET THE REQUIREMENTS OF SECTION 3(4)(D), SHALL BE EXCLUDED BEGINNING AT THE TIME THE APPLICATION IS SUBMITTED AND FOR THREE YEARS FROM THE DATE THE FIXED MRI UNIT BECOMES OPERATIONAL.*

(III) *FOR PURPOSES OF COMPUTING ACTUAL MRI ADJUSTED PROCEDURES, THE MRI ADJUSTED PROCEDURES UTILIZED TO MEET THE REQUIREMENTS OF SECTION 4(1) SHALL BE REDUCED BY 8,000 AND SHALL BE EXCLUDED BEGINNING AT THE TIME THE APPLICATION IS SUBMITTED AND FOR THREE YEARS FROM THE DATE THE FIXED MRI UNIT BECOMES OPERATIONAL.*

(B) *IDENTIFY THE NUMBER OF AVAILABLE MRI ADJUSTED PROCEDURES, IF ANY, FOR EACH EXISTING MRI SERVICE AS DETERMINED PURSUANT TO SECTION 2(1)(C).*

(c) Determine the number of available MRI adjusted procedures that each referring doctor may commit from each service to an application in accordance with the following:

(i) **Divide the number of available MRI adjusted procedures identified in subsection (b) for each service by the number of actual MRI adjusted procedures identified in subsection (a) for that existing MRI service.**

(ii) For each doctor referring to that existing service, multiply the number of actual MRI adjusted procedures that the referring doctor made to the existing MRI service by the applicable proportion obtained by the calculation in subdivision (c)(i).

(A) For each doctor, subtract any available adjusted procedures previously committed. The total for each doctor cannot be less than zero.

(B) The total number of available adjusted procedures for that service shall be the sum of the results of (A) above.

(III) FOR EACH MRI SERVICE, THE AVAILABLE MRI ADJUSTED PROCEDURES RESULTING FROM THE CALCULATION IN (II) ABOVE SHALL BE SORTED IN DESCENDING ORDER BY THE AVAILABLE MRI ADJUSTED PROCEDURES FOR EACH DOCTOR. THEN ANY DUPLICATE VALUES SHALL BE SORTED IN DESCENDING ORDER BY THE DOCTORS' LICENSE NUMBERS (LAST 6 DIGITS ONLY).

(IV) USING THE DATA PRODUCED IN III ABOVE, SUM THE NUMBER OF AVAILABLE ADJUSTED PROCEDURES IN DESCENDING ORDER UNTIL THE SUMMATION EQUALS AT LEAST 75 PERCENT OF THE TOTAL AVAILABLE ADJUSTED PROCEDURES. THIS SUMMATION SHALL INCLUDE THE MINIMUM NUMBER OF DOCTORS NECESSARY TO REACH THE 75 PERCENT LEVEL.

(V) FOR THE DOCTORS REPRESENTING 75 PERCENT OF THE TOTAL AVAILABLE ADJUSTED PROCEDURES IN (IV) ABOVE, SUM THE AVAILABLE ADJUSTED PROCEDURES.

(VI) FOR THE DOCTORS USED IN SUBSECTION (V) ABOVE, DIVIDE THE TOTAL NUMBER OF AVAILABLE ADJUSTED PROCEDURES IDENTIFIED IN (B) ABOVE BY THE SUM OF THOSE AVAILABLE ADJUSTED PROCEDURES PRODUCED IN (V) ABOVE.

(VII) FOR ONLY THOSE DOCTORS IDENTIFIED IN (V) ABOVE, MULTIPLY THE RESULT OF (VI) ABOVE BY THE AVAILABLE ADJUSTED PROCEDURES CALCULATED IN (C)(II)(A) ABOVE.

(VIII) THE RESULT SHALL BE THE "AVAILABLE MRI ADJUSTED PROCEDURES LIST."

(2) AFTER PUBLICATION OF THE "AVAILABLE MRI ADJUSTED PROCEDURES LIST" RESULTING FROM (1) ABOVE, THE DATA SHALL BE UPDATED TO ACCOUNT FOR A) DOCTOR COMMITMENTS OF AVAILABLE MRI ADJUSTED PROCEDURES IN SUBSEQUENT MRI CON APPLICATIONS AND B) MRI ADJUSTED PROCEDURES USED IN SUBSEQUENT MRI CON APPLICATIONS RECEIVED IN WHICH APPLICANTS APPLY FOR FIXED MRI SERVICES PURSUANT TO SECTION 3(4).

Section 17. Procedures and requirements for commitments of available MRI adjusted procedures

Sec. 17. (1) If one or more host sites on a mobile MRI service are located within the planning area of the proposed site, the applicant may access available MRI adjusted procedures from the entire mobile MRI service.

(2)(a) At the time the application is submitted to the Department, the applicant shall submit a signed data commitment, on a form provided by the Department in response to the applicant's letter of intent or at the applicant's discretion, on a more current form subsequently provided by the Department, for each doctor committing available MRI adjusted procedures to that application for a new or additional MRI unit pursuant to Section 3 or Section 4(2), respectively.

(b) An applicant also shall submit, at the time the application is filed with the Department, a computer file that lists, for each MRI service from which data are being committed to the same application, the name and license number of each doctor for whom a signed and dated data commitment form is submitted.

(i) The computer file shall be provided to the Department on mutually agreed upon media and in a format prescribed by the Department.

(ii) If the doctor commitments submitted on the Departmental forms do not agree with the data on the computer file, the applicant shall be allowed to correct only the computer file data which includes adding physician commitments that were submitted at the time of application.

(C) IF THE REQUIRED DOCUMENTATION FOR THE DOCTOR COMMITMENTS SUBMITTED UNDER THIS SUBSECTION IS NOT SUBMITTED WITH THE APPLICATION ON THE DESIGNATED APPLICATION DATE, THE APPLICATION WILL BE DEEMED FILED ON THE FIRST APPLICABLE DESIGNATED APPLICATION DATE AFTER ALL REQUIRED DOCUMENTATION IS RECEIVED BY THE DEPARTMENT.

(3) The Department shall consider a data commitment, on a form provided by the Department in response to the applicant's letter of intent or at the applicant's discretion, on a more current form subsequently provided by the Department, submitted by the applicant in support of its application, that meets the requirements of each of the following, as applicable:

(a) A committing doctor certifies that 100% of his or her available MRI adjusted procedures for each specified MRI service, calculated pursuant to Section 16, is being committed and specifies the CON application number, for the new fixed or mobile MRI unit or for the additional mobile MRI unit proposed to be located within the planning area, to which the data commitment is made. A doctor shall not be required to commit available MRI adjusted procedures from all MRI services to which his or her patients are referred for MRI services but only from those MRI services specified by the doctor in the data commitment form provided by the Department and submitted by the applicant in support of its application.

(b) A committing doctor certifies that he or she does not have an ownership interest, either direct or indirect, in the applicant entity, except that this requirement shall not apply if the applicant entity is a group practice of which the committing doctor is a member.

(c) A committing doctor certifies that he or she has not been provided, or received a promise of being provided, a financial incentive to commit any of his or her available MRI adjusted procedures to the application.

(4)(a) The Department shall not consider a data commitment from a doctor for available MRI adjusted procedures from a specific MRI service if the available MRI adjusted procedures from that specific MRI service were used to support approval of an application for a new or additional MRI unit, pursuant to Section 3 or 4(2), respectively, for which a final decision to approve has been issued by the Director of the Department until either of the following occurs:

(i) The approved CON is withdrawn or expires.

(ii) The MRI service or unit to which the data were committed has been in operation for at least 36 continuous months.

(b) The Department shall not consider a data commitment from a doctor for available MRI adjusted procedures from a specific MRI service if the available MRI adjusted procedures from that specific MRI service were used to support an application for a new fixed or mobile MRI unit or additional mobile MRI unit pursuant to Section 3 or 4(2), respectively, for which a final decision to disapprove was issued by the Director of the Department until either of the following occurs:

(i) A final decision to disapprove an application is issued by the Director and the applicant does not appeal that disapproval or

(ii) If an appeal was made, either that appeal is withdrawn by the applicant or the committing doctor withdraws his or her data commitment pursuant to the requirements of subsection (8).

(5) The Department shall not consider a data commitment from a committing doctor for available MRI adjusted procedures from the same MRI service if that doctor has submitted a signed data commitment, on a form provided by Department, for more than one (1) application for which a final decision has not been issued by the Department. If the Department determines that a doctor has submitted a signed data commitment for the same available MRI adjusted procedures from the same MRI service to more than one CON application pending a final decision for a new fixed or mobile MRI unit or additional mobile MRI unit pursuant to Section 3 or 4(2), respectively, the Department shall,

(a) if the applications were filed on the same designated application date, notify all applicants, simultaneously and in writing, that one or more doctors have submitted data commitments for available MRI adjusted procedures from the same MRI service and that the doctors' data from the same MRI service shall not be considered in the review of any of the pending applications filed on the same designated application date until the doctor notifies the Department, in writing, of the one (1) application for which the data commitment shall be considered.

(b) if the applications were filed on different designated application dates, consider the data commitment submitted in the application filed on the earliest designated application date and shall notify, simultaneously in writing, all applicants of applications filed on designated application dates subsequent to the earliest date that one or more committing doctors have submitted data commitments for available MRI adjusted procedures from the same MRI service and that the doctors' data shall not be considered in the review of the application(s) filed on the subsequent designated application date(s).

(6) The Department shall not consider any data commitment submitted by an applicant after the date an application is deemed complete unless an applicant is notified by the Department, pursuant to subsection (5), that one or more committing doctors submitted data commitments for available MRI adjusted procedures from the same MRI service. If an applicant is notified that one or more doctors' data commitments will not be considered by the Department, the Department shall consider data commitments submitted after the date an application is deemed complete only to the extent necessary to replace the data commitments not being considered pursuant to subsection (5).

(7) In accordance with either of the following, the Department shall not consider a withdrawal of a signed data commitment

(a) during the 120-day period following the date on which the Department's review of an application commences.

(b) after a proposed decision to approve an application has been issued by the Department.

(8) The Department shall consider a withdrawal of a signed data commitment if a committing doctor submits a written notice to the Department, that specifies the CON application number and the specific MRI services for which a data commitment is being withdrawn, and if an applicant demonstrates that the requirements of subsection (7) also have been met.

Section 18. Lists of MRI adjusted procedures published by the Department

Sec. 18. (1) At a minimum, on or before May 1 and November 1 of each year, the Department shall publish the following lists:

(a) A list, known as the "MRI Service Utilization List," of all MRI services in Michigan that includes at least the following for each MRI service:

- (i) The number of actual MRI adjusted procedures;
- (ii) The number of available MRI adjusted procedures, if any; and
- (iii) The number of MRI units, including whether each unit is a clinical unit or an MRI unit used exclusively for research.

(b) A list, known as the "Available MRI Adjusted Procedures List," that identifies each MRI service that has available MRI adjusted procedures and includes at least the following:

- (i) The number of available MRI adjusted procedures;
- (ii) The name, address, and license number of each referring doctor, identified in Section 16(1)(c)(v), whose patients received MRI services at that MRI service; and
- (iii) The number of available MRI adjusted procedures performed on patients referred by each referring doctor, identified in Section 16(1)(c)(v), and if any are committed to an MRI service. This number shall be calculated in accordance with the requirements of Section 16(1). A referring doctor may have fractional portions of available MRI adjusted procedures.

(c) For the lists published pursuant to subsections (a) or (b), the May 1 list will report 12 months of data from the previous January 1 through December 31 reporting period, and the November 1 list will report 12 months of data from the previous July 1 through June 30 reporting period. Copies of both lists shall be available upon request.

(d) The Department shall not be required to publish a list that sorts MRI database information by referring doctor, only by MRI service.

(2) When an MRI service begins to operate at a site at which MRI services previously were not provided, the Department shall include in the MRI database, data beginning with the second full quarter of operation of the new MRI service. Data from the start-up date to the start of the first full quarter will not be collected to allow a new MRI service sufficient time to develop its data reporting capability. Data from the first full quarter of operation will be submitted as test data but will not be reported in the lists published pursuant to this section.

(3) In publishing the lists pursuant to subsections (a) and (b), if an MRI service has not reported data in compliance with the requirements of Section 13(1)(d)(iii), the Department shall indicate on both lists that the MRI service is in violation of the requirements set forth in Section 13(1)(d)(iii), and no data will be shown for that service on either list.

(4) In the case of an MRI service at which MRI services previously were not provided, the Department may use annualized data from at least a consecutive six-month period in publishing the lists pursuant to subsections (a) and (b).

Section 19. Effect on prior CON Review Standards; Comparative reviews

Sec. 19. (1) These CON review standards supersede and replace the CON Review Standards for Magnetic Resonance Imaging Services approved by the CON Commission on September 18, 2007 and effective November 13, 2007.

- (2) Projects reviewed under these standards shall not be subject to comparative review.

Section 20. Health Service Areas

Sec. 20. Counties assigned to each of the health service areas are as follows:

HSA	COUNTIES		
1	Livingston Macomb Wayne	Monroe Oakland	St. Clair Washtenaw
2	Clinton Eaton	Hillsdale Ingham	Jackson Lenawee
3	Barry Berrien Branch	Calhoun Cass	St. Joseph Van Buren Kalamazoo
4	Allegan Ionia Kent Lake	Mason Mecosta Montcalm Muskegon	Newaygo Oceana Osceola Ottawa
5	Genesee	Lapeer	Shiawassee
6	Arenac Bay Clare Gladwin Gratiot	Huron Iosco Isabella Midland	Roscommon Saginaw Sanilac Tuscola Ogemaw
7	Alcona Alpena Antrim Benzie Charlevoix Cheboygan	Crawford Emmet Gd Traverse Kalkaska Leelanau Manistee	Missaukee Montmorency Oscoda Otsego Presque Isle Wexford
8	Alger Baraga Chippewa Delta Dickinson	Gogebic Houghton Iron Keweenaw Luce	Mackinac Marquette Menominee Ontonagon Schoolcraft

A

CON REVIEW STANDARDS
FOR MRI SERVICES

APPENDIX

Rural Michigan counties are as follows:

Alcona	Hillsdale	Ogemaw
Alger	Huron	Ontonagon
Antrim	Iosco	Osceola
Arenac	Iron	Oscoda
Baraga	Lake	Otsego
Charlevoix	Luce	Presque Isle
Cheboygan	Mackinac	Roscommon
Clare	Manistee	Sanilac
Crawford	Mason	Schoolcraft
Emmet	Montcalm	Tuscola
Gladwin	Montmorency	
Gogebic	Oceana	

Micropolitan statistical area Michigan counties are as follows:

Allegan	Gratiot	Mecosta
Alpena	Houghton	Menominee
Benzie	Isabella	Midland
Branch	Kalkaska	Missaukee
Chippewa	Keweenaw	St. Joseph
Delta	Leelanau	Shiawassee
Dickinson	Lenawee	Wexford
Grand Traverse	Marquette	

Metropolitan statistical area Michigan counties are as follows:

Barry	Ionia	Newaygo
Bay	Jackson	Oakland
Berrien	Kalamazoo	Ottawa
Calhoun	Kent	Saginaw
Cass	Lapeer	St. Clair
Clinton	Livingston	Van Buren
Eaton	Macomb	Washtenaw
Genesee	Monroe	Wayne
Ingham	Muskegon	

Source:

65 F.R., p. 82238 (December 27, 2000)
Statistical Policy Office
Office of Information and Regulatory Affairs
United States Office of Management and Budget

CERTIFICATE OF NEED REVIEW STANDARDS

MICHIGAN DEPARTMENT OF COMMUNITY HEALTH

CERTIFICATE OF NEED (CON) REVIEW STANDARDS
FOR BONE MARROW TRANSPLANTATION SERVICES

(By authority conferred on the CON Commission by Section 22215 of Act No. 368 of the Public Acts of 1978, as amended, and sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being sections 333.22215, 24.207, and 24.208 of the Michigan Compiled Laws.)

Section 1. Applicability

Sec. 1. (1) These standards are requirements for the approval and delivery of services for all projects approved and Certificates of Need issued under Part 222 of the Code which involve bone marrow transplantation services.

(2) A bone marrow transplantation service is a covered clinical service for purposes of Part 222 of the Code.

(3) A bone marrow transplantation service listed on the Department inventory that is located at a hospital site and initially does not perform both allogeneic and autologous procedures shall not be required to obtain separate CON approval to begin performing both autologous and allogeneic bone marrow transplant procedures.

(4) An existing bone marrow transplantation service that performs only adult procedures shall require separate CON approval in order to perform pediatric procedures. An existing bone marrow transplantation service that performs only pediatric procedures shall require separate CON approval in order to perform adult procedures.

(5) The Department shall use Sections 3, 7 & 8, as applicable, in applying Section 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws.

(6) The Department shall use Sections 4, 5 & 6, as applicable, in applying Section 22225(2)(c) of the Code, being Section 333.22225(2)(c) of the Michigan Compiled Laws.

Section 2. Definitions

Sec. 2. (1) As used in these standards:

(a) "Acquisition of a bone marrow transplantation service" means the acquisition (including purchase, lease, donation, or other arrangement) of an existing bone marrow transplantation service.

(b) "Adult," for purposes of these standards, means an individual age 18 or older.

(c) "Allogeneic" means transplantation between genetically nonidentical individuals of the same species.

(d) "Autologous" means transplantation in which the donor and recipient are the same individual.

(e) "Bone marrow transplantation service" means the transplantation of proliferating hematopoietic stem cells essential to the survival of a patient derived from the bone marrow, the peripheral circulation, cord blood, or any other source.

(f) "Cancer hospital" means a hospital that has been approved to participate in the Title XVIII (Medicare) program as a prospective payment system (PPS) exempt hospital in accordance with Section 1886 (d)(1)(B)(v) of the Social Security Act, as amended.

(g) "Certificate of Need Commission" or "CON Commission" means the Commission created pursuant to Section 22211 of the Code, being Section 333.22211 of the Michigan Compiled Laws.

(h) "Comparative group" means the applications that have been grouped for the same type of project in the same planning area and are being reviewed comparatively in accordance with the CON rules.

(i) "Code" means Act No. 368 of the Public Acts of 1978, as amended, being Section 333.1101 et seq. of the Michigan Compiled Laws.

(j) "Department" means the Michigan Department of Community Health (MDCH).

(k) "Department inventory of bone marrow transplantation services" means the list maintained by the Department of: (i) the bone marrow transplantation services operating pursuant to a valid CON issued under Part 222 or former Part 221; (ii) operating bone marrow transplantation services for which the operation of that service did not require a CON; and (iii) bone marrow transplantation services that are not yet operational but have a valid CON issued under Part 222. The list shall inventory adult and pediatric services separately and shall specify the site at which the bone marrow transplantation service is authorized.

(l) "Existing bone marrow transplantation service," for purposes of Section 3(5) of these standards, means any of the following: (i) a bone marrow transplantation service listed on the Department inventory, (ii) a proposed bone marrow transplantation service under appeal from a final decision of the Department, or (iii) a proposed bone marrow transplantation service that is part of a completed application under Part 222 (other than the application under review) for which a proposed decision has been issued and which is pending final decision.

(m) "Health service area" or "HSA" means the geographic area set forth in Section 9.

(n) "Implementation plan" means a plan that documents how a proposed bone marrow transplantation service will be initiated within the time period specified in these standards or the CON rules. At a minimum, the implementation plan shall identify:

(i) each component or activity necessary to begin performing the proposed bone marrow transplantation service including, but not limited to, the development of physical plant requirements, such as an intensive care unit capable of treating immuno-suppressed patients, equipment acquisitions, and recruitment and employment of all physician and support staff;

(ii) the time table for completing each component or activity specified in subsection (i); and

(iii) if the applicant previously has been approved for a bone marrow transplantation service for which either the CON expired or the service did not perform a transplant procedure during any consecutive 12-month period, what changes have or will be made to ensure that the proposed service can be initiated and provided on a regular basis.

(o) "Initiate" or "implement" for purposes of these standards, means the performance of the first transplant procedure. The term of an approved CON shall be 18 months or the extended period established by Rule 325.9403(2), if authorized by the Department.

(p) "Initiate a bone marrow transplantation service" means to begin operation of a bone marrow transplantation service at a site that does not provide either adult or pediatric bone marrow transplantation services and is not listed on the Department inventory as of the date an application is submitted to the Department. The term includes an adult service that is proposing to provide a pediatric

bone marrow transplantation service, and a pediatric service that is proposing to provide an adult bone marrow transplantation service. The term does not include beginning operation of a bone transplantation service by a cancer hospital which acquires an existing bone marrow transplantation service provided that all of the staff, services, and programs required under section 3(3) are to be provided by the cancer hospital and/or by the hospital from which the bone marrow transplantation service is being acquired.

(q) "Institutional Review Board" or "IRB" means an institutional review board as defined by Public Law 93-348 which is regulated by Title 45 CFR 46.

(r) "Licensed site" means either:

(i) in the case of a single site hospital, the location of the facility authorized by license and listed on that licensee's certificate of licensure or

(ii) in the case of a hospital with multiple sites, the location of each separate and distinct inpatient unit of the health facility as authorized by license and listed on that licensee's certificate of licensure.

(s) "Medicaid" means title XIX of the social security act, chapter 531, 49 Stat. 620, 1396r-6 and 1396r-8 to 1396v.

(t) "Pediatric" means, for purposes of these standards, any patient 20 years of age or less or any patient with congenital conditions or diseases for which bone marrow transplantation is a treatment.

(u) "Planning area" means:

(i) for an adult bone marrow transplantation service, the state of Michigan.

(ii) for a pediatric bone marrow transplantation service, either:

(A) planning area one that includes the counties in health service areas 1, 2, 5, and 6, and the following counties in health service area 7: Alcona, Alpena, Cheboygan, Crawford, Montmorency, Oscoda, Otsego, and Presque Isle; or

(B) planning area two that includes the counties in health service areas 3, 4, and 8, and the following counties in health service area 7: Antrim, Benzie, Charlevoix, Emmet, Grand Traverse, Kalkaska, Leelanau, Manistee, Missaukee, and Wexford.

(v) "Qualifying project" means each application in a comparative group that has been reviewed individually and has been determined by the Department to have satisfied all of the requirements of Section 22225 of the Code, being Section 333.22225 of the Michigan Compiled Laws, and all other applicable requirements for approval in the Code and these standards.

(w) "Survival rate" means, for purposes of these standards, the rate calculated using the Kaplan-Meier technique and the following: (i) the date of transplantation (or, if more than one transplant is performed, the date of the first transplant) must be the starting date for calculation of the survival rate; (ii) for those dead, the date of death is used, if known. If the date of death is unknown, it must be assumed as 1 day after the date of the last ascertained survival; (iii) for those who have been ascertained as surviving within 60 days before the fiducial date (the point in time when the facility's survival rates are calculated and its experience is reported), survival is considered to be the date of the last ascertained survival, except for patients described in subsection (v); (iv) any patient who is not known to be dead, but whose survival cannot be ascertained to a date that is within 60 days before the fiducial date, must be considered as "lost to follow up" for the purposes of the survival rate calculation; (v) any patient transplanted between 61 and 120 days before the fiducial date must be considered as "lost to follow up" if he or she is not known to be dead and his or her survival has not been ascertained for at least 60 days before the fiducial date. Any patient transplanted within 60 days before the fiducial date must be considered as "lost to follow up" if he or she is not known to be dead and his or her survival has not been ascertained on the fiducial date; and (vi) the survival analyses must use the assumption that each patient in the "lost to follow up" category died 1 day after the last date of

ascertained survival. However, an applicant may submit additional analyses that reflect each patient in the "lost to follow up" category as alive at the date of the last ascertained survival.

- (2) The definitions of Part 222 shall apply to these standards.

Section 3. Requirements for approval for applicants proposing to initiate a bone marrow transplantation service

Sec. 3. (1) An applicant proposing to initiate a bone marrow transplantation service shall specify in the application whether the proposed service will perform either or both adult and pediatric bone marrow transplant procedures.

(2) An applicant shall specify the licensed hospital site at which the bone marrow transplantation service will be provided.

(3) An applicant proposing to initiate either an adult or pediatric bone marrow transplantation service shall demonstrate that the licensed hospital site at which the transplants will be offered provides each of the following staff, services, and programs:

- (a) operating rooms.
- (b) continuous availability, on-site or physically connected, either immediate or on-call, of CT scanning, magnetic resonance imaging, ultrasound, angiography, and nuclear medicine services.
- (c) dialysis.
- (d) inpatient-outpatient social work.
- (e) inpatient-outpatient psychiatry/psychology.
- (f) clinical research.
- (g) a microbiology and virology laboratory.
- (h) a histocompatibility laboratory that meets the standards of the American Society for Histocompatibility and Immunogenetics, or an equivalent organization, either on-site or through written agreement.
- (i) a hematopathology lab capable of performing cell phenotype analysis using flow cytometry.
- (j) a clinical chemistry lab with the capability to monitor antibiotic and antineoplastic drug levels, available either on-site or through other arrangements that assure adequate availability.
- (k) other support services, as necessary, such as physical therapy and rehabilitation medicine.
- (l) continuous availability of anatomic and clinical pathology and laboratory services, including clinical chemistry, and immuno-suppressive drug monitoring.
- (m) continuous availability of red cells, platelets, and other blood components.
- (n) an active medical staff that includes, but is not limited to, the following board-certified or board-eligible specialists. For an applicant that is proposing to perform pediatric transplant procedures, these specialists shall be board-certified or board-eligible in the pediatric discipline of each specialty.
 - (i) anesthesiology.
 - (ii) cardiology.
 - (iii) critical care medicine.
 - (iv) gastroenterology.
 - (v) general surgery.
 - (vi) hematology.
 - (vii) infectious diseases.
 - (viii) nephrology.

- (ix) neurology.
- (x) oncology.
- (xi) pathology, including blood banking experience.
- (xii) pulmonary medicine.
- (xiii) radiation oncology.
- (xiv) radiology.
- (xv) urology.

(o) One or more consulting physicians who are board-certified or board-eligible in each of the following specialties. For an applicant proposing to perform pediatric bone marrow transplant procedures, these specialists shall have specific experience in the care of pediatric patients.

- (i) dermatology.
- (ii) immunology.
- (iii) neurosurgery.
- (iv) orthopedic surgery.

(4) An applicant must provide an implementation plan for the proposed bone marrow transplantation service.

(5)(a) An applicant shall demonstrate that the number of existing adult bone marrow transplantation services in the planning area identified in Section 2(1)(u)(i) does not exceed three (3) adult bone marrow transplantation services and that approval of the proposed application will not result in the total number of adult bone marrow transplantation services exceeding three (3) in the planning area.

(b) An applicant shall demonstrate that the number of existing pediatric bone marrow transplantation services does not exceed two (2) pediatric bone marrow transplantation services in planning area one identified in Section 2(1)(u)(ii)(A) or one (1) pediatric bone marrow transplantation service in planning area two identified in Section 2(1)(u)(ii)(B) and that approval of the proposed application will not result in the total number of pediatric bone marrow transplantation services exceeding the need for each specific pediatric planning area.

(6)(a) An applicant proposing to initiate an adult bone marrow transplantation service that will perform only allogeneic transplants, or both allogeneic and autologous transplants, shall project that at least 10 allogeneic transplant procedures will be performed in the third 12-months of operation. An applicant proposing to initiate an adult bone marrow transplantation service that will perform only autologous procedures shall project that at least 10 autologous transplant procedures will be performed in the third 12-months of operation.

(b) An applicant proposing to initiate a pediatric bone marrow transplantation service that will perform only allogeneic transplants, or both allogeneic and autologous transplants, shall project that at least 10 allogeneic transplant procedures will be performed in the third 12-months of operation. An applicant proposing to initiate a pediatric bone marrow transplantation service that will perform only autologous procedures shall project that at least 10 autologous transplant procedures will be performed in the third 12-months of operation.

(c) An applicant proposing to initiate both an adult and a pediatric bone marrow transplantation service shall specify whether patients age 18-20 are included in the projection of adult procedures required pursuant to subsection (a) or the projection of pediatric procedures required pursuant to subsection (b). An applicant shall not include patients age 18-20 in both adult and pediatric projections required pursuant to subsections (a) and (b).

(7) An applicant shall provide megavoltage radiation therapy services, either on-site or physically connected, with a nominal beam energy of at least 6 MEV, including the capability to perform total body irradiation.

(8) An applicant shall demonstrate that the licensed hospital site at which the proposed bone marrow transplantation service is proposed has an institutional review board.

(9) An applicant proposing to initiate a pediatric bone marrow transplantation service shall demonstrate that the licensed hospital site at which the pediatric transplant procedures will be performed has each of the following:

- (a) a designated pediatric inpatient oncology unit.
- (b) a pediatric inpatient intensive care unit.
- (c) membership status in either the Pediatric Oncology Group (POG) or the Children's Cancer Group (CCG).
- (d) a pediatric tumor board that meets on a regularly scheduled basis.
- (e) family support group services, provided either directly or through written agreements.
- (f) a pediatric cancer program with the following staff:
 - (i) a director who is either a board-certified immunologist who has specific training and experience in bone marrow transplantation or a board-certified pediatric hematologist/oncologist.
 - (ii) nurses with training and experience in pediatric oncology.
 - (iii) social workers with training and experience in pediatric oncology.
 - (iv) pediatric psychologists.
 - (v) child life specialists.

(10)(a) An applicant proposing to initiate either a new adult or pediatric bone marrow transplantation service shall submit, in its application, a written consulting agreement with an existing bone marrow transplantation service, that meets each of the requirements in subsection (b).

(b) The written consulting agreement required by subsection (a) shall specify the term of the agreement and the roles and responsibilities of both the existing and proposed service, including at least the following:

(i) The term of the written consulting agreement is no less than 36 months after the proposed service begins to perform bone marrow transplant procedures.

(ii) One or more representatives of the existing bone marrow transplantation service have been designated as staff responsible for carrying out the roles and responsibilities of the existing service.

(iii) The existing service shall evaluate and make recommendations to the proposed service on policies and procedures, including time tables, for at least each of the following:

- (A) nursing services.
- (B) infection control.
- (C) nutritional support.
- (D) staff needs and training.
- (E) inpatient and outpatient medical coverage.
- (F) transfusion and blood bank policies.
- (G) transplant treatment protocols.
- (H) hematopoiesis laboratory services and personnel.
- (I) data management.
- (J) quality assurance program.

(iv) Specify a schedule of site visits by staff of the existing bone marrow transplantation service that, at a minimum, includes:

- (A) 6 visits during the first 12-months of operation of the proposed service.
- (B) 4 visits during each the second 12-months and third 12-months of operation of the proposed service.
- (v) Specify that the purpose of the site visits required by subdivision (iv) is to assess the proposed service and make recommendations related to quality assurance mechanisms of the proposed service, including at least each of the following:
 - (A) a review of the number of patients transplanted.
 - (B) transplant outcomes.
 - (C) all infections requiring treatment or life-threatening toxicity, defined for purposes of this agreement as National Cancer Institutes grade #3 or greater toxicity, excluding hematological toxicity.
 - (D) all deaths occurring within 100 days from transplant.
 - (E) each of the requirements of subdivision (iii).
- (vi) Specify that a written report and minutes of each site visit shall be completed by the existing bone marrow transplantation service and sent to the proposed service within 2 weeks of each visit, and that copies of the reports and minutes shall be available to the Department upon request. At a minimum, the written report shall address each of the items in subdivision (v).
- (vii) Specify that the existing bone marrow transplantation service shall notify the Department and the proposed service immediately if it determines that the proposed service may not be in compliance with any applicable quality assurance requirements, and develop jointly with the proposed service a plan for immediate remedial actions.
- (viii) Specify that the existing bone marrow transplantation service shall notify the Department immediately if the consulting agreement required pursuant to these standards is terminated and that the notification shall include a statement describing the reasons for the termination.
- (c) For purposes of subsection (10), "existing bone marrow transplantation service" means a service that meets all of the following:
 - (i) currently is performing and is Foundation for Accreditation of Cell Therapy (FACT) accredited in, the types of transplants (allogeneic or autologous; adult or pediatric) proposed to be performed by the applicant;
 - (ii) currently is certified as a National Marrow Donor Program; and
 - (iii) is located in the United States.
- (d) An applicant shall document that the existing bone marrow transplantation service meets the requirements of subsection (c).

Section 4. Additional requirements for applications included in comparative reviews

Sec. 4. (1) Any application subject to comparative review under Section 22229 of the Code, being Section 333.22229 of the Michigan Compiled Laws, or these standards, shall be grouped and reviewed with other applications in accordance with the CON rules applicable to comparative reviews.

(2)(a) A qualifying project will have points awarded based on the number of bone marrow transplantation services, adult or pediatric, as applicable, listed on the Department inventory in the health service area in which the proposed service will be located, on the date the application is submitted to the Department, as shown in the following schedule:

Number of BMT Transplant Services (adult or pediatric, as applicable)	Points
---	--------

in HSA

Awarded

Two or more services	0
One service	2
No services	4

(b) A qualifying project will have up to 4 points awarded based on the percentage of the medical/surgical indigent volume at the licensed hospital site at which the proposed bone marrow transplantation service will be provided in accordance with the following:

(i) For each applicant in the same comparative group, determine the medical/surgical indigent volume, rounded to the nearest whole number, for each licensed hospital site at which a bone marrow transplantation service is proposed to be provided. Determine the licensed hospital site that has the highest indigent volume in the same comparative group. Divide the medical/surgical indigent volume for that licensed hospital site by 4.0. The result is the indigent volume factor.

(ii) For each applicant in the same comparative group, divide the medical/surgical indigent volume by the indigent volume factor determined in subdivision (i). The result, to the first decimal place, is the number of points that will be awarded to each applicant pursuant to this subsection.

For purposes of this subsection, indigent volume means the ratio of a hospital's indigent charges to its total charges expressed as a percentage as determined by the Michigan Department of Community Health Medical Services Administration pursuant to Chapter VIII of the Medical Assistance Program Hospital Manual. The indigent volume data being used for rates in effect at the time the application is deemed submitted will be used by the Department in determining the number of points awarded to each qualifying project.

(c) A qualifying project will have 2 points awarded if an applicant documents that, during the 36-month period prior to the date an application is submitted to the Department, at least 15 patients received pre- and post-transplant care at the licensed hospital site at which the bone marrow transplant procedures will be performed and were referred for and received a bone marrow transplant at an existing bone marrow transplantation service, and submits documentation from the existing bone marrow transplantation service(s) of these referrals.

(3) Each application in a comparative group shall be individually reviewed to determine whether the application has satisfied all the requirements of Section 22225 of the Code being Section 333.22225 of the Michigan Compiled Laws and all other applicable requirements for approval in the Code and these standards. If the Department determines that two or more competing applications satisfy all of the requirements for approval, these projects shall be considered qualifying projects. The Department shall approve those qualifying projects which, when taken together, do not exceed the need, as defined in Section 22225(1) of the Code, and which have the highest number of points when the results of subsection (2) are totaled. If two or more qualifying projects are determined to have an identical number of points, then the Department shall approve those qualifying projects which, when taken together, do not exceed the need, in the order in which the applications were received by the Department, based on the date and time stamp placed on the applications by the Department in accordance with Rule 325.9123.

(4) No points will be awarded to an applicant under specific subsections of Section 4 if information presented is inconsistent with related information provided in other portions of the CON application.

Section 5. Requirements for approval -- all applicants

Sec. 5. An applicant shall provide verification of Medicaid participation at the time the application is submitted to the Department. An applicant that is initiating a new service or is a new provider not currently enrolled in Medicaid shall provide a signed affidavit stating that proof of Medicaid participation will be provided to the Department within six (6) months from the offering of services if a CON is approved. If the required documentation is not submitted with the application on the designated application date, the application will be deemed filed on the first applicable designated application date after all required documentation is received by the Department.

Section 6. Project delivery requirements -- terms of approval for all applicants

Sec. 6. (1) An applicant shall agree that, if approved, the bone marrow transplantation service shall be delivered in compliance with the following terms of CON approval:

(a) Compliance with these standards. An applicant shall immediately report to the Department any changes in key staff or other aspects of the bone marrow transplantation service that may affect its ability to comply with these standards.

(b) Compliance with applicable safety and operating standards.

(c) Compliance with the following quality assurance standards, as applicable, no later than the date the first bone marrow transplant procedure, allogeneic or autologous, is performed:

(i) An applicant shall establish and maintain, either on-site or through written agreements, all of the following:

(A) 24-hour blood bank support, including pheresis capability, irradiated blood, products suitable for cytomegalovirus-negative transplants, and blood component therapy.

(B) a cytogenetics and/or molecular genetic laboratory.

(C) a processing and cryopreservation laboratory that meets the standards of the Foundation for Accreditation of Cell Therapy (FACT) or an equivalent organization.

(D) for a program that performs allogeneic transplants, a histocompatibility laboratory that has the capability of DNA-based HLA-typing and meets the standards of the American Society for Histocompatibility and Immunogenetics or an equivalent organization.

(E) anatomic and clinical pathology with competency in interpreting pathologic findings related to graft-v-host disease (programs performing allogeneic transplants) and other opportunistic infections in immuno-compromised hosts (programs performing allogeneic or autologous transplants).

(F) therapeutic drug monitoring.

(ii) An applicant shall establish and maintain, at the licensed hospital site at which the transplants are performed, both of the following:

(A) a protective environmental bone marrow transplant inpatient unit for immuno-suppressed patients that has an isolation policy, an infection control plan specific to that unit, and an air handling system capable of preventing nosocomial infections disseminated from central heating and cooling systems and ambient air.

(B) a specialized intensive care unit capable of treating immuno-suppressed neutropenic patients.

(iii) An applicant shall establish and maintain written policies related to outpatient care for bone marrow transplantation patients, including at least the following:

(A) the ability to evaluate and provide treatment on a 24-hour basis.

(B) nurses experienced in the care of bone marrow transplantation patients.

(C) a designated outpatient area for patients requiring long-duration infusions or the administration of multiple medications or blood product transfusions.

(iv) A bone marrow transplantation service shall establish and maintain a dedicated transplant team that includes at least the following staff:

(A) a transplant team leader, who is a physician that is board-certified in at least one of the following specialties: hematology, medical oncology, immunology, or pediatric hematology/oncology, as appropriate, and has had either at least one year of specific clinical training or two years of experience, both inpatient and outpatient, as an attending physician principally responsible for the clinical management of patients treated with hematopoietic transplantation. If the bone marrow transplantation service performs allogeneic transplants, the team leader's experience shall include the clinical management of patients receiving an allogeneic transplant. The responsibilities of the transplant team leader shall include overseeing the medical care provided by attending physicians, reporting required data to the Department, and responsibility for ensuring compliance with the all applicable project delivery requirements.

(B) one or more attending physicians with specialized training in pediatric and/or adult, as appropriate, bone marrow transplantation. If a service performs allogeneic transplants, at least one attending physician shall have specialized training in allogeneic transplantation, adult or pediatric, as appropriate. An attending physician shall be board-certified or board-eligible in hematology, medical oncology, immunology, or pediatric hematology/oncology, as appropriate.

(C) on-site availability of board-certified or board-eligible consulting physicians, adult and/or pediatric, as appropriate, in at least the following specialties: anatomic pathology with competence in graft versus host disease (services performing allogeneic transplants) and other opportunistic diseases (services performing allogeneic or autologous transplants), cardiology, gastroenterology, infectious diseases with experience in immuno-compromised hosts, nephrology, psychiatry, pulmonary medicine, and radiation oncology with experience in total body irradiation, and an intensivist who is board-certified in critical care.

(D) a transplant team coordinator, who shall be responsible for providing pre-transplant patient evaluation and coordinating treatment and post-transplant follow-up and care.

(E) a nurse to patient ratio necessary to provide care consistent with the severity of a patient's clinical status.

(F) nurses with specialized training in pediatric and/or adult, as appropriate, bone marrow transplantation, hematology/oncology patient care, administration of cytotoxic therapies, management of infectious complications associated with compromised host-defense mechanisms, administration of blood components, the hemodynamic support of the transplant patient, and managing immuno-suppressed patients.

(G) a pharmacist experienced with the use of cytotoxic therapies, use of blood components, the hemodynamic support of the transplant patient, and the management of immuno-suppressed patients.

(H) dietary staff capable of providing dietary consultations regarding a patient's nutritional status, including total parenteral nutrition.

(I) designated social services staff.

(J) designated physical therapy staff.

(K) data management personnel designated to the bone marrow transplantation service.

(L) for an applicant performing pediatric bone marrow transplants, a child-life specialist.

(v) In addition to the dedicated transplant team required in subdivision (iv), an applicant's staff shall include a patient ombudsman, who is familiar with the bone marrow transplantation service, but who is not a member of the transplant team.

(vi) An applicant shall develop and maintain patient management plans and protocols that include the following:

(A) therapeutic and evaluative procedures for the acute and long-term management of a patient.

(B) patient management and evaluation during the waiting, in-hospital and immediate post-discharge phases of the service.

(C) long-term management and evaluation, including education of the patient, liaison with the patient's attending physician, and the maintenance of active patient records for at least 5 years.

(D) IRB approval of all clinical research protocols, or if transplantation does not require an IRB-approved clinical research protocol, written policies and procedures that include at least the following: donor, if applicable, and recipient selection, transplantation evaluations, administration of the preparative regimen, post-transplantation care, prevention and treatment of graft-versus-host disease (allogeneic transplants), and follow-up care.

(vii) An applicant shall establish and maintain a written quality assurance plan.

(viii) An applicant shall implement a program of education and training for nurses, technicians, service personnel, and other hospital staff.

(ix) An applicant shall participate actively in the education of the general public and the medical community with regard to bone marrow transplantation, and make donation literature available in public areas of the institution.

(x) An applicant shall establish and maintain an active, formal multi-disciplinary research program related to the proposed bone marrow transplantation service.

(xi) An applicant shall operate, either on-site or under its direct control, a multi-disciplinary selection committee which includes, but is not limited to, a social worker, a mental health professional, and physicians experienced in treating bone marrow transplant patients.

(xii) A pediatric bone marrow transplant service shall maintain membership status in the Children's Oncology Group (COG).

(xiii) For purposes of evaluating subsection (c), except subdivision (xii), the Department shall consider it prima facie evidence as to compliance with the applicable requirements if an applicant documents that the bone marrow transplantation service is accredited by the National Marrow Donor Program (NMDP) or the Foundation for the Accreditation of Cell Therapy (FACT).

(xiv) An applicant shall participate in Medicaid at least 12 consecutive months within the first two years of operation and continue to participate annually thereafter.

(d) Compliance with the following terms of approval:

(i) An applicant shall perform the applicable required volumes as follow:

(A) An adult bone marrow transplantation service that performs only allogeneic transplants, or both allogeneic and autologous transplants, shall perform at least 10 allogeneic transplants in the third 12-months of operation. If an adult service performs only autologous transplants, the service shall perform at least 10 autologous transplants in the third 12-months of operation. After the third 12-months of operation, an applicant shall perform at least 30 adult transplants in any 36-month consecutive period, with no fewer than 5 allogeneic in any 12-month period, beginning with the third 12-months of operation, and thereafter.

(B) A pediatric bone marrow transplantation service that performs only allogeneic transplants, or both allogeneic and autologous transplants, shall perform at least 10 allogeneic transplants in the third 12-months of operation. If a pediatric service performs only autologous transplants, the service shall perform at least 10 autologous transplants in the third 12-months of operation. After the third 12-months of operation, an applicant shall perform at least 30 pediatric transplants in any 36-month consecutive period, with no fewer than 5 allogeneic transplants in any 12-month period, beginning with the third 12-months of operation, and thereafter.

(C) A bone marrow transplantation service that performs both adult and pediatric bone marrow transplants shall specify whether each patient age 18-20 is included in the category of adult

procedures or the category of pediatric procedures. An applicant shall determine for each patient age 18-20 whether to record that patient as an adult or a pediatric procedure, but an applicant shall record each patient age 18-20 in only 1 category.

(ii) The applicant shall participate in a data collection network established and administered by the Department or its designee. The data may include, but is not limited to, annual budget and cost information, demographic and diagnostic information, primary and secondary diagnoses, whether the transplant procedure was a first or repeat transplant procedure, length of stay, the volume of care provided to patients from all payor sources, and other data requested by the Department and approved by the CON Commission. The applicant shall provide the required data on an individual basis for each designated licensed site; in a format established by the Department; and in a mutually-agreed upon media. The Department may elect to verify the data through on-site review of appropriate records. In addition, an applicant shall report at least the following data for each patient:

- (A) disease type.
- (B) transplant type, i.e., related allogeneic, unrelated allogeneic, and autologous.
- (C) source of hematopoietic stem cell, i.e., bone marrow, peripheral circulation, cord blood, etc.
- (D) patient age, i.e., adult or pediatric as defined by these standards.
- (E) data on 100-day, 6-month, 1-year, 2-year, and 5-year survival rates.
- (F) relapse rates at 6-months, 1-year, and 5-years post-transplant.
- (G) median follow-up, and patients lost-to-followup.
- (H) cause(s) of death, if applicable.
- (I) additional summary information, as applicable.

An applicant annually shall report for its bone marrow transplantation service annual and cumulative survival rates by type of transplant performed reported in actual number of transplants by disease category, transplant type, i.e., related allogeneic, unrelated allogeneic, and autologous; source of hematopoietic stem cell; patient age, i.e., adult or pediatric, as defined by these standards; and relapse rates at 100-days, 6-months, one year, and five years post-transplant. For purposes of these standards, procedure-related mortality is defined as death occurring within 100 days from bone marrow transplant.

(iii) The applicant shall maintain an organized institutional transplant registry for recording ongoing information on its patients being evaluated for transplant and on its transplant recipients and shall participate in the national and international registries applicable to the bone marrow transplantation service.

(iv) An applicant, to assure that the bone marrow transplantation service(s) will be utilized by all segments of the Michigan population, shall:

- (A) not deny the services to any individual based on ability to pay or source of payment;
- (B) provide the services to all individuals in accordance with the patient selection criteria developed by appropriate medical professionals, and approved by the Department; and
- (C) maintain information by payor and non-paying sources to indicate the volume of care from each source provided annually.

Compliance with selective contracting requirements shall not be construed as a violation of this term.

(v) The applicant shall provide the Department with a notice stating the date on which the first transplant procedure is performed and such notice shall be submitted to the Department consistent with applicable statute and promulgated rules. An applicant that initially does not perform both allogeneic and autologous procedures also shall notify the Department when it begins to perform either allogeneic or autologous procedures, whichever was not performed initially by the applicant.

(vi) An applicant shall notify the Department immediately if the consulting agreement required pursuant to Section 3(10) of these standards is terminated prior to the end of the first 36-months of operation of the bone marrow transplantation service. The notification shall include a statement describing the reasons for the termination. An applicant shall have 30 days following termination of that agreement to enter into a written consulting agreement that meets the requirements of Section 3(10). An applicant shall provide the Department with a copy of that written consulting agreement.

(vii) The Department may use the information provided pursuant to Section 3(10) of these standards in evaluating compliance with the requirements of this section.

(2) The agreements and assurances required by this section, as applicable, shall be in the form of a certification authorized by the governing body of the applicant or its authorized agent.

Section 7. Documentation of projections

Sec. 7. An applicant required to project volumes of service under Section 3 shall specify how the volume projections were developed. This specification of projections shall include a description of the data source(s) used, assessments of the accuracy of these data, and the statistical method used to make the projections. Based on this documentation, the Department shall determine if the projections are reasonable.

Section 8. Requirements for approval – acquisition of a bone marrow transplantation service by a cancer hospital

(1) An applicant proposing to acquire an existing bone marrow transplantation service shall demonstrate that it meets all of the requirements of this subsection and shall not be required to be in compliance with section 3(5) and the department inventory.

(a) The total number of bone marrow transplantation services is not increased in the planning area as the result of the acquisition.

(b) As part of the acquisition of the bone marrow transplantation service, the acquisition or replacement of the cancer hospital, or for any other reasons, the location of the bone marrow transplantation service shall be located at its prior location or in space within the licensed cancer hospital site.

(c) The applicant is a cancer hospital as defined by these standards. The applicant shall, to the satisfaction of the Department, provide verification of PPS-exemption at the time of application, or shall demonstrate compliance with the following to the satisfaction of the Department:

(i) The applicant, or an affiliate of the applicant, operates a comprehensive cancer center recognized by the National Cancer Institute in conjunction with a Michigan university that is designated as a comprehensive cancer center, or the applicant is the Michigan university that is designated as a comprehensive cancer center.

(ii) The applicant commits to provide evidence, satisfactory to the Department, of approval as a PPS-exempt hospital within the time limits specified in subsection (g).

(d) The applicant demonstrates that it meets, directly or through arrangements with the hospital from which it acquires the bone marrow transplantation service, the requirements set forth under section 3(3), (6), (7), and (8), as applicable.

(e) The applicant agrees to either have a written consulting agreement as required by Section 3(10) or obtain a determination by the Department that such an agreement is not required because the existing bone marrow transplantation staff, services, and program substantially will continue to be in place after the acquisition.

(f) The applicant agrees and assures to comply, either directly or through arrangements with the hospital from which it acquires the bone marrow transplantation service, with all applicable project delivery requirements.

(g) If the applicant described in this subsection does not meet the Title XVIII requirements of the Social Security Act for exemption from PPS within 24 months after receiving CON approval under this section, the Department may extend the 24-month deadline to no later than the last session day permitted by the United States Constitution for the next United States Congress in session after the effective date of these standards. Extension of the deadline shall require demonstration by the applicant, to the satisfaction of the Department, that there has been progress toward achieving the changes in federal law and regulations that are required to secure the PPS exemption. If the applicant fails to meet the Title XVIII requirements for PPS exemption within the 24-month period, or its possible extension, then the CON granted pursuant to this section shall expire automatically and will not be subject to further applications for acquisition. However, prior to the final deadline for the expiration of the CON, the prior holder of the (CON/authorization) to provide the bone marrow transplantation service may apply for acquisition of the service, pursuant to all the provisions of this section, except for subsection (c).

2. Applicants proposing to acquire an existing bone marrow transplantation service under this section shall not be subject to comparative review.

Section 9. Health Service Areas

Sec. 9. Counties assigned to each health service area are as follows:

	HSA	COUNTIES		
Clair	1	Livingston	Monroe	St.
		Macomb Wayne	Oakland	Washtenaw
Jackson	2	Clinton	Hillsdale	
Lenawee		Eaton	Ingham	
Buren	3	Barry Berrien	Calhoun Cass	St. Joseph Van
		Branch	Kalamazoo	
Newaygo	4	Allegan	Mason	
		Ionia Kent Lake	Mecosta Montcalm Muskegon	Oceana Osceola Ottawa
	5	Genesee	Lapeer	Shiawassee

Tuscola	6	Arenac Bay Clare Gladwin	Huron Iosco Isabella Midland	Roscommon Saginaw Sanilac
		Gratiot	Ogemaw	
	7	Alcona Alpena Antrim Benzie Charlevoix Cheboygan	Crawford Emmet Gd Traverse Kalkaska Leelanau Manistee	Missaukee Montmorency Oscoda Otsego Presque Isle Wexford
	8	Alger Baraga Chippewa Delta Dickinson	Gogebic Houghton Iron Keweenaw Luce	Mackinac Marquette Menominee Ontonagon Schoolcraft

Section 10. Department Inventory of Bone Marrow Transplantation Services

Sec 10. The Department shall maintain, and provide on request, a listing of the Department Inventory of bone marrow transplantation services.

Section 11. Effect on prior CON Review Standards; comparative reviews

Sec. 11. (1) These CON review standards supersede and replace the CON Review Standards for Extrarenal Transplantation Services pertaining to bone marrow transplantation services approved by the CON Commission on December 12, 2006 and effective on March 8, 2007.

(2) Projects reviewed under these standards shall be subject to comparative review.

**ENROLLED SENATE AND HOUSE BILLS
SIGNED INTO LAW OR VETOED
(2008 SESSION)**

Mich. Const. Art. IV, §33 provides: “Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated.”

Mich. Const. Art. IV, §27, further provides: “No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.”

MCL 24.208 states in part:

“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.”

**ENROLLED SENATE AND HOUSE BILLS
SIGNED INTO LAW OR VETOED
(2008 SESSION)**

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
1		730	Yes	1/11	1/11	1/11/08	Education; other; references to "handicapped person" in school code; revise to "student with a disability", allow for transfer of public school academy assets and pupils to another public school, and revise effective date for school district consolidations. (Sen. J. Gleason)
2		545	Yes	1/16	1/16	1/16/08	Environmental protection; water pollution; storm water permits; provide waiver of fees for certain municipalities. (Sen. M. Jansen)
3	5123		Yes	2/7	2/7	2/7/08	Economic development; commercial redevelopment; obsolete requirement; modify. (Rep. S. Bieda)
4	5101		Yes	2/7	2/7	2/7/08	Economic development; neighborhood enterprise zones; eligibility; expand to include new facilities. (Rep. B. Farrah)
5		111	Yes	2/7	2/7	2/7/08	Mobile homes; other; penalties for park owners who fail to remit assessment tax; provide for. (Sen. R. Jelinek)

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** - Act takes effect on the 91st day after *sine die* adjournment of the Legislature.

*** - See Act for applicable effective date.

+ - Line item veto

- Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
6		577	Yes	2/12	2/12	8/10/08	Construction; housing; certain requirements for residential owner-builders to comply with prior to sale of structure; clarify. (Sen. J. Gilbert)
7	4505		Yes	2/15	2/15	2/15/08	Traffic control; driver license; issuance of driver license to individual not lawfully in the United States; prohibit, and revise procedures for issuance of license. (Rep. C. Ward)
8		092	Yes	2/20	2/20	2/20/08	Environmental protection; permits; liquid industrial waste; exempt fats used to produce fuels, and make technical revisions. (Sen. R. Basham)
9		123	Yes	2/29	2/29	2/29/08	Businesses; nonprofit corporations; use of electronic communications; allow for nonprofit corporations. (Sen. A. Sanborn)
10		565	Yes	2/29	2/29	6/1/08	Crimes; larceny; shipping containers; include in crime of breaking and entering. (Sen. J. Gilbert)
11	4684		Yes	2/29	2/29	2/29/08	Liquor; other; serving alcohol to an individual who is intoxicated; clarify. (Rep. F. Accavitti)
12	5032		Yes	2/29	2/29	2/29/08	Land use; zoning and growth management; zoning enabling act; make corrective and technical revisions. (Rep. B. Byrum)

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13	5034		Yes	2/29	2/29	2/29/08 #	Agriculture; fertilizer; "agricultural use"; define. (Rep. J. Sheltrown)
14	5035		Yes	2/29	2/29	2/29/08	Agriculture; fertilizer; approval for ordinance regarding use of agricultural fertilizer; require by Michigan commission of agriculture. (Rep. J. Mayes)
15		097	Yes	2/29	2/29	6/1/08	Children; child care; requirement for licensees and registrants to notify parents of complaints of rule violations and investigations; establish. (Sen. B. Hardiman)
16		155	Yes	2/29	2/29	6/1/08 #	Criminal procedure; sentencing guidelines; crime of false report initiating special investigation; enact. (Sen. C. Brown)
17		630	Yes	2/29	2/29	2/29/08	Highways; name; certain portion of M-62; designate as the "Veteran's Memorial Highway". (Sen. R. Jelinek)
18		682	Yes	2/29	2/29	2/29/08	Agriculture; pesticides; distributors of agricultural pesticides; require to be licensed, and require out-of-state pesticide dealers to maintain a registered office. (Sen. M. McManus)

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19	5021		Yes	3/6	3/7	3/7/08	Vehicles; equipment; certain visual displays for use in motor vehicles; revise requirements. (Rep. K. Angerer)
20	4650		Yes	3/6	3/7	3/7/08	Civil procedure; other; uniform foreign-country money judgments recognition act; create. (Rep. P. Condino)
21	5384		Yes	3/6	3/7	3/7/08	Energy; other; energy employment act; revise. (Rep. M. Nofs)
22	4220		Yes	3/12	3/12	3/12/08	Public employees and officers; ethics; school board member volunteer service in school district; allow under certain conditions. (Rep. J. Espinoza)
23	5535		Yes	3/13	3/13	3/13/08	Traffic control; other; enhanced driver license and enhanced official state personal identification card act; enact. (Rep. S. Tobocman)
24	5536		Yes	3/13	3/13	3/13/08 #	Criminal procedure; sentencing guidelines; sentencing guideline for crime of fraudulent certification or statement in applying for enhanced driver license or enhanced official state identification card; establish. (Rep. E. Clemente)

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25	5582		Yes	3/13	3/13	5/12/08 #	Aeronautics; other; aviation fuel used for certain purposes; exempt from taxation. (Rep. S. Bieda)
26	5583		Yes	3/13	3/13	5/12/08 #	Aeronautics; other; certain aviation fuel; exempt from motor fuel tax. (Rep. T. Schuitmaker)
27		530	Yes	3/13	3/13	3/13/08	Recreation; outdoor activities; noise emission from snowmobiles; provide standard. (Sen. J. Allen)
28		750	Yes	3/13	3/13	3/13/08	Veterans; employment; employment preference for honorably discharged veterans; modify residency requirement. (Sen. R. Basham)
29		1061	Yes	3/13	3/13	3/13/08	Insurance; other; captive insurance companies; regulate. (Sen. A. Sanborn)
30		1062	Yes	3/13	3/13	3/13/08 #	Business tax; other; taxation of captive insurance companies; exclude. (Sen. A. Sanborn)
31		654	Yes	3/13	3/13	3/13/08 #	State; identification cards; class 2 identification card; provide for. (Sen. A. Sanborn)
32		966	Yes	3/13	3/13	3/13/08	State; identification cards; personal identification cards; revise requirements for applications. (Sen. C. Brown)
33		206	Yes	3/13	3/13	9/1/08	Land use; planning; planning law consolidation; provide for. (Sen. P. Birkholz)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
34		523	Yes	3/13	3/13	3/13/08	Property; conveyances; transfer of certain state owned property in Lapeer county; provide for. (Sen. J. Gilbert)
35		1076	Yes	3/13	3/14	3/14/08	Economic development; downtown development authorities; issuance of qualified refunding obligations; revise. (Sen. A. Cropsey)
36		712	Yes	3/13	3/17	3/17/08 #	Traffic control; driver license; amendments regarding revised uniform anatomical gift act; provide for in vehicle code. (Sen. H. Clarke)
37		713	Yes	3/13	3/17	3/17/08 #	Criminal procedure; sentencing guidelines; sentencing guidelines for certain violations of the revised uniform anatomical gift act; enact. (Sen. J. Allen)
38		714	Yes	3/13	3/17	3/17/08 #	Health; anatomical gifts; amendments regarding revised uniform anatomical gift act; provide for in medical examiner law. (Sen. R. Kahn)
39	4940		Yes	3/13	3/17	5/1/08 #	Health; anatomical gifts; revised uniform anatomical gift law; create. (Rep. P. Condino)
40	4941		Yes	3/13	3/17	3/17/08 #	State; identification cards; amendments regarding revised uniform anatomical gift law; provide for in personal identification card law. (Rep. K. Angerer)

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41	4945		Yes	3/13	3/17	3/17/08 #	Health; anatomical gifts; amendments regarding revised uniform anatomical gift law; provide for in estates and protected individuals code. (Rep. B. Calley)
42	5184		Yes	3/20	3/20	3/20/08	Property; conveyances; certain property previously conveyed by the state to the city of Lansing; receive from the city of Lansing and reconvey with altered usage restrictions. (Rep. J. Bauer)
43		082	Yes	3/27	3/27	7/1/08	Vehicles; equipment; use of child safety restraint system or booster seat for certain children; require. (Sen. M. McManus)
44		364	Yes	3/27	3/27	3/27/08	Economic development; commercial redevelopment; corridor improvement authority act; modify. (Sen. G. Jacobs)
45	4763		Yes	3/27	3/27	3/27/08	Health; poisons; painting of old houses by volunteer neighborhood groups; exempt from lead-based paint activity certification requirement of public health code. (Rep. J. Mayes)
46		273	Yes	3/27	3/27	3/27/08	Children; protection; procedure regarding follow-up to report of child abuse or neglect that involves a licensed or registered facility or home; clarify. (Sen. B. Hardiman)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
47		667	Yes	3/27	3/27	3/27/08	Family law; marriage and divorce; persons authorized to solemnize marriage; allow county clerk in a county other than county in which clerk serves. (Sen. C. Brown)
48		815	Yes	3/27	3/27	1/1/08	Communications; telecommunications; ability of CMRS supplier or reseller to collect service charge; clarify. (Sen. B. Patterson)
49		1135	Yes	3/27	3/27	3/27/08	Local government; authorities; zoological authority; permit any county to create. (Sen. G. Jacobs)
50	5319		Yes	3/27	3/28	3/28/08	Local government; other; penalties for noncompliance with order; expand to include a blight violation under certain circumstances. (Rep. S. Jackson)
51	4868		Yes	3/27	3/28	3/28/08	Cities; home rule; administrative hearings bureau authority to adjudicate blight violations; expand to include right-of-way signage violations and dangerous building violations, and to provide other technical amendments. (Rep. C. Young)
52	5665		Yes	3/27	3/28	3/28/08	Communications; telecommunications; sunset; eliminate. (Rep. F. Accavitti)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
53	5443		Yes	4/2	4/3	4/3/08 #	Housing; housing development authority; waiver for bonds issued to refinance single family homes; provide for. (Rep. S. Tobocman)
54		951	Yes	4/2	4/3	4/3/08 #	Housing; housing development authority; financing for purchase of certain existing single-family residences; expand to include refinancing. (Sen. S. Thomas)
55		950	Yes	4/2	4/3	4/3/08 #	Housing; housing development authority; recapture tax fund; establish. (Sen. H. Clarke)
56	5446		Yes	4/2	4/3	4/3/08 #	Housing; housing development authority; limitation on aggregate principal amount of notes and bonds; extend issuance date. (Rep. B. Cook Scott)
57		948	Yes	4/2	4/3	4/3/08 #	Housing; housing development authority; refinancing program; allow housing development authority to offer. (Sen. T. Hunter)
58		1133	Yes	4/2	4/3	4/3/08 #	Housing; housing development authority; income qualifier for financing loan; increase. (Sen. R. Richardville)
59	5287		Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; revise compensation provisions. (Rep. S. Jackson)

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60	5288		Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; establish registration application process. (Rep. A. Coulouris)
61	5289		Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; require certain notices to OFIS. (Rep. E. Clemente)
62	5290		Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; clarify authority of OFIS commissioner and revise administrative process concerning revocation or suspension of registration. (Rep. D. Robertson)
63	5291		Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; revise provisions applicable to investigations by OFIS. (Rep. D. Booher)
64		826	Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation of and registration of mortgage loan officers; create mortgage industry advisory board. (Sen. R. Richardville)

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65		827	Yes	4/2	4/3	4/3/08 #	Criminal procedure; sentencing guidelines; violation of mortgage company act or secondary mortgage loan act; reflect reduction of penalty to misdemeanor. (Sen. R. Richardville)
66		828	Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; revise title and definition section of mortgage broker act. (Sen. H. Clarke)
67		829	Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; establish registration renewal process. (Sen. T. Stamas)
68		830	Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; establish fees and allocate fee revenue to MBLSLA fund. (Sen. T. Hunter)
69		831	Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; establish effect of surrender, revocation, or suspension of registration. (Sen. D. Olshove)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
70		832	Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; prohibit certain activities by loan officers. (Sen. N. Cassis)
71		833	Yes	4/2	4/3	4/3/08 #	Financial institutions; mortgage brokers and lenders; regulation and registration of mortgage loan officers; prohibit acting without registration and establish penalties and remedies for violating act. (Sen. A. Sanborn)
72	4596		Yes	4/2	4/3	1/1/09	Financial institutions; mortgage brokers and lenders; fees, application dates, and license or registration expiration dates; revise, and establish MBLSLA fund. (Rep. S. Jackson)
73	5861		Yes	4/7	4/7	4/7/08	Transportation; funds; funding for jobs today program; extend sunset. (Rep. M. Valentine)
74		1176	Yes	4/7	4/8	4/8/08	Business tax; other; credit for certain production companies for qualified job training expenditures; provide for. (Sen. P. Birkholz)
75		1177	Yes	4/7	4/8	5/4/08	State financing and management; funds; strategic fund incentives for film production industry; provide for. (Sen. J. Allen)

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76		1178	Yes	4/7	4/8	4/8/08	State financing and management; other; provision to allow cost-free use of state property for film industry productions; provide for. (Sen. T. Hunter)
77	5841		Yes	4/7	4/8	4/8/08	Business tax; other; credit for certain production companies for production expenditures; provide for. (Rep. A. Meisner)
78	5842		Yes	4/7	4/8	4/8/08	Sales tax; exemptions; incentives to film production industry; provide for. (Rep. C. Young)
79	5844		Yes	4/7	4/8	4/8/08	Income tax; credit; credit for certain eligible production companies; provide for. (Rep. B. Johnson)
80	5848		Yes	4/7	4/8	4/8/08	State financing and management; funds; Michigan strategic fund loans to qualified film industry productions; provide for. (Rep. R. Jones)
81	5852		Yes	4/7	4/8	4/8/08	Military affairs; other; provision to allow cost-free use of state property for film industry productions; provide for. (Rep. D. Hildenbrand)
82	5853		Yes	4/7	4/8	4/8/08	Natural resources; other; authority of DNR director to authorize free use of DNR controlled property for film production; expressly recognize in statute. (Rep. K. Law)

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83	5854		Yes	4/7	4/8	4/8/08	Transportation; other; provision to allow cost-free use of state property for film industry productions; provide for. (Rep. E. Clemente)
84	5855		Yes	4/7	4/8	4/8/08	Local government; other; local government filming location access act; create. (Rep. F. Miller)
85		1183	Yes	4/7	4/8	5/4/08 #	History and arts; other; powers, duties, and functions of the Michigan film office and Michigan film advisory commission; modify. (Sen. T. Stamas)
86		1173	Yes	4/7	4/8	4/8/08	Business tax; other; credit for certain qualified film and digital media infrastructure projects; provide for. (Sen. H. Clarke)
87		1174	Yes	4/7	4/8	4/8/08	Economic development; Michigan economic growth authority; tax incentives for qualified companies in the film production industry; provide for. (Sen. J. Gilbert)
88	5858		Yes	4/8	4/8	4/8/08	Business tax; other; credit for certain taxpayers for creating an anchor zone of certain businesses; provide for. (Rep. E. Clemente)
89	5511		Yes	4/8	4/8	4/8/08	Business tax; other; brownfield credit revisions; provide for. (Rep. E. Clemente)
90	4416		Yes	4/8	4/8	7/1/08 #	Occupations; real estate; real estate broker responsibilities under exclusive service provision agreements; clarify. (Rep. T. Schuitmaker)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
91	4417		Yes	4/8	4/8	7/1/08 #	Occupations; real estate; real estate broker responsibilities under an exclusive service provision agreement; provide as part of agency disclosure. (Rep. B. Farrah)
92		1115	Yes	4/8	4/8	4/8/08	Business tax; other; a new Michigan economic growth authority credit for certain anchor companies; create. (Sen. J. Allen)
93		351	Yes	4/8	4/8	4/8/08	Counties; ordinances; billboard zoning ordinances; allow counties to establish under certain circumstances. (Sen. J. Gilbert)
94		047	Yes	4/8	4/8	4/8/08	Economic development; tax increment financing; water improvement tax increment financing authority; create. (Sen. J. Allen)
95		105	Yes	4/8	4/8	4/8/08	Courts; state court administration; authority for magistrates to oversee arraignments; allow. (Sen. V. Garcia)
96	4215		Yes	4/8	4/8	4/8/08	Property tax; principal residence exemption; additional principal residence exemption on 2 properties up to 3 years; allow under certain circumstances. (Rep. E. Gaffney)
97		1192	Yes	4/15	4/15	4/15/08	Business tax; other; film rental and royalty payments made by theater owner included as purchases from other firms; revise effective date. (Sen. J. Barcia)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
98		1223	Yes	4/18	4/18	4/18/08	State financing and management; funds; Michigan promotion program in the Michigan strategic fund; create. (Sen. J. Allen)
99		1224	Yes	4/18	4/18	4/18/08	State financing and management; funds; deposit and disposition of additional tobacco bond proceeds; provide for. (Sen. T. Stamas)
100	5865		Yes	4/18	4/18	4/18/08	State financing and management; funds; Michigan promotion program to promote tourism; create, and provide funding. (Rep. K. Ebli)
101	5866		Yes	4/18	4/18	4/18/08	Taxation; tobacco; refunding, refinancing, and sale of residual interest; provide for in Michigan tobacco settlement finance authority act. (Rep. T. Brown)
102	5867		Yes	4/18	4/18	4/18/08	State financing and management; funds; deposit and disposition of additional tobacco bond proceeds; provide for. (Rep. K. Horn)
103		1157	Yes	4/18	4/18	4/18/08	Higher education; other; use of Michigan guaranty agency operating funds for state competitive scholarships; authorize. (Sen. M. Switalski)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
104		1203	Yes	4/23	4/23	4/23/08 #	Economic development; local development financing; number of certified technology parks; expand. (Sen. R. Richardville)
105	5609		Yes	4/23	4/23	4/23/08 #	Economic development; local development financing; additional certified technology parks; provide for. (Rep. M. Simpson)
106		192	Yes	4/24	4/25	4/25/08	Labor; fair employment practices; job security for returning military personnel; provide for, and provide remedies for noncompliance. (Sen. J. Barcia)
107		120	Yes	4/24	4/25	4/25/08	Human services; food assistance; food assistance benefits; require distribution twice a month. (Sen. M. Scott)
108		1187	Yes	4/24	4/28	4/28/08 #	Economic development; Michigan economic growth authority; multisection bill to revise eligibility criteria; provide for. (Sen. T. Stamas)
109		1188	Yes	4/24	4/28	4/28/08 #	Business tax; other; tax credit for being awarded certain federal procurement contracts; provide for. (Sen. J. Gilbert)

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110		1189	Yes	4/24	4/28	4/28/08 #	Economic development; Michigan economic growth authority; multisection bill to revise eligibility criteria; provide for. (Sen. H. Clarke)
111		1190	Yes	4/24	4/28	4/28/08 #	Business tax; other; revisions to Michigan economic growth authority credit; provide for. (Sen. T. Hunter)
112	5531		Yes	4/24	4/29	4/29/08	Appropriations; supplemental; adjustments to 2007-2008 state school aid appropriations; provide for. (Rep. M. Gillard)
113	5344		Yes	4/25	4/29	4/29/08 +	Appropriations; supplemental; multidepartment supplemental; provide for fiscal year 2007-2008. (Rep. G. Cushingberry)
114	5463		Yes	4/29	4/29	4/29/08 #	Business tax; other; eligible taxpayer for credit for entertainment complexes; revise. (Rep. T. Melton)
115		1118	Yes	4/29	4/29	4/29/08 #	Business tax; other; eligible taxpayer for credit for entertainment complexes; revise. (Sen. J. Pappageorge)

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116	5600		Yes	4/29	4/29	4/29/08 #	Economic development; renaissance zones; eligibility criteria; provide for certain modifications. (Rep. M. Sak)
117		885	Yes	4/29	4/29	4/29/08	Economic development; renaissance zones; recommendation of commission of agriculture for certain renaissance zones and other miscellaneous changes; provide for. (Sen. R. Kahn)
118	5459		Yes	4/29	4/29	4/29/08	Economic development; commercial redevelopment; eligibility; expand to include certain vacant or blighted properties. (Rep. J. Mayes)
119	5607		Yes	4/29	4/29	4/29/08	Watercraft; traffic control; exception for disabled individual to restrictions against use of motorized watercraft; create. (Rep. B. Calley)
120		415	Yes	5/8	5/9	5/9/08	Health; immunizations; information regarding risks and availability of human papillomavirus immunization; require department to identify and provide to schools. (Sen. D. Cherry)

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121	5322		Yes	5/8	5/9	5/9/08	Education; students; certain information concerning human papillomavirus (HPV) and HPV immunization; require schools to provide under certain circumstances. (Rep. B. Clack)
122		209	Yes	5/8	5/9	5/9/08	Property tax; appeals; alternative start dates for board of review; provide for. (Sen. R. Jelinek)
123		1161	Yes	5/8	5/9	5/9/08	Health facilities; employees; implementation of long-term care employee background check; revise. (Sen. P. Birkholz)
124		716	Yes	5/8	5/9	5/9/08	Health; medical records; access to medical records including autopsy reports; clarify. (Sen. T. George)
125	4433		Yes	5/8	5/9	5/9/08	Property tax; tax tribunal; certification of mediators and mediation process; provide for. (Rep. S. Bieda)
126	4434		Yes	5/8	5/9	5/9/08	Property tax; tax tribunal; issuance of proposed decisions and determination of fees; provide for. (Rep. C. Young)
127	4435		Yes	5/8	5/9	5/9/08	Property tax; tax tribunal; restriction on number of members from same occupation; remove. (Rep. F. Sheen)

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128	4436		Yes	5/8	5/9	5/9/08	Property tax; tax tribunal; small claims hearings; modify. (Rep. T. Melton)
129	4437		Yes	5/8	5/9	5/9/08	Property tax; tax tribunal; requirement for evening hearing in the small claims division if requested; repeal. (Rep. B. Calley)
130		108	Yes	5/8	5/9	5/9/08	Communications; telecommunications; eligibility date to opt into METRO funds; revise. (Sen. R. Basham)
131	5695		Yes	5/21	5/21	5/21/2008	Traffic control; traffic regulation; loading requirements for carrying logs or tubular products; revise. (Rep. J. Mayes)
132	5798		Yes	5/21	5/21	5/21/2008	Public utilities; other; steam cost recovery; provide for. (Rep. C. Young)
133		751	Yes	5/21	5/21	5/21/2008	State financing and management; purchasing; veterans' preference for construction, goods, and services; increase. (Sen. J. Pappageorge)
134		115	Yes	5/21	5/21	5/21/2008	Land use; planning; joint planning commission; provide for phased transfer of powers and duties to. (Sen. P. Birkholz)
135	5894		Yes	5/21	5/21	5/21/2008	Human services; adult foster care; implementation of long-term care employee background check; revise. (Rep. S. Jackson)
136		1007	Yes	5/21	5/21	6/20/2008	Food; milk; grade A milk law; revise. (Sen. P. Birkholz)

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137		435	No	5/21	5/21	**	Courts; district court; eighty-seventh judicial district; reorganize into 3 separate districts. (Sen. T. Stamas)
138		749	Yes	5/21	5/21	5/21/2008	Liens; foreclosure; prohibition of foreclosure of mortgages given by certain active military personnel; provide for. (Sen. D. Olshove)
139		731	Yes	5/28	5/28	5/28/2008	Military affairs; other; requirement to provide certain returning reservists with post-traumatic stress disorder (PTSD) and traumatic brain injury questionnaires; provide for. (Sen. J. Allen)
140	5509		Yes	5/28	5/28	5/28/2008	Trade; other; farm produce insurance act; provide for technical amendments. (Rep. J. Mayes)
141		747	Yes	5/28	5/28	5/28/2008	Education; attendance; student's absence due to parent's being deployed or return from active duty; require to be treated as excused absence. (Sen. V. Garcia)
142	5102		Yes	5/28	5/28	5/28/2008	Gaming; lottery; additional jackpot prize payout; prohibit retailers from paying. (Rep. B. Farrah)
143	4557		Yes	5/28	5/28	5/28/2008	Income tax; checkoff; military family relief fund; incorporate into the contributions schedule in 2010. (Rep. R. LeBlanc)
144	5174		Yes	5/28	5/28	5/28/2008	Consumer protection; leases; termination of motor vehicle leases by certain active duty military personnel; allow. (Rep. G. Polidori)

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145	5085		Yes	5/28	5/28	7/1/2009	Vehicles; registration; secured registration for snowmobiles; establish. (Rep. J. Mayes)
146	5274		Yes	5/28	5/28	5/28/2008	Occupations; private detectives; definition and qualifications of licensed professional investigator; revise, and clarify the conduct of certain activities. (Rep. B. Farrah)
147	5585		Yes	5/28	5/28	6/27/2008	Food; milk; manufacturing of milk; revise. (Rep. J. Espinoza)
148	5909		Yes	5/28	5/28	5/28/2008#	Probate; trusts; personal property trust perpetuities act; create. (Rep. A. Meisner)
149	4602		Yes	5/28	5/28	5/28/2008#	Probate; trusts; statutory rule against perpetuities; limit application to real property and make inoperable certain language governing exercising a power of appointment. (Rep. T. Schuitmaker)
150	4965		Yes	6/5	6/5	6/5/2008	Property; conveyances; transfer of reversionary interest in part of certain state owned property previously conveyed; provide for. (Rep. H. Walker)
151		515	Yes	6/5	6/5	6/5/2008	Income tax; checkoff; military family relief fund; eliminate sunset and incorporate compliance with new contributions schedule. (Sen. J. Allen)
152		1234	Yes	6/5	6/5	6/5/2008	Watercraft; other; airboats; regulate speed of near residences. (Sen. P. Birkholz)

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153		1308	Yes	6/5	6/5	6/5/2008	Environmental protection; other; liquid industrial waste; exempt certain fuel products. (Sen. J. Gilbert)
154	5539		Yes	6/5	6/5	6/5/2008	Economic development; tax increment financing; reimbursement of certain tax capture reductions for brownfield redevelopment authorities; provide for. (Rep. S. Bieda)
155	5540		Yes	6/5	6/5	6/5/2008	Economic development; tax increment financing; reimbursement of certain tax capture reductions for local development finance authorities; provide for. (Rep. L. Wenke)
156	5541		Yes	6/5	6/5	6/5/2008	Economic development; tax increment financing; reimbursement of certain tax capture reductions for tax increment finance authorities; provide for. (Rep. R. Dean)
157	5542		Yes	6/5	6/5	6/5/2008	Economic development; tax increment financing; reimbursement of certain tax capture reductions for downtown development authorities; provide for. (Rep. R. Jones)
158	4184		Yes	6/5	6/5	6/5/2008	Corrections; alternatives; special alternative incarceration programs for prisoners; revise eligibility requirements. (Rep. P. Condino)

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159	4216		Yes	6/11	6/11	6/11/2008	Occupations; individual licensing and regulation; certain boiler operators and stationary engineers; allow registration under certain circumstances. (Rep. R. Jones)
160	5963		Yes	6/11	6/11	6/11/2008	State; interstate compacts and agreements; interstate compact on educational opportunity for military children; establish. (Rep. G. Polidori)
161	5936		Yes	6/11	6/11	6/11/2008	Occupations; accounting; provisions relating to licensing and registration of certified public accountants; modify. (Rep. A. Coulouris)
162	5476		Yes	6/16	6/16	6/16/08	Income tax; checkoff; Michigan law enforcement officers memorial monument fund; provide check-off option. (Rep. B. Byrum)
163		752	Yes	6/19	6/19	6/19/08	Veterans; other; filing location of discharge papers for national guard reservists; clarify. (Sen. J. Allen)
164		296	Yes	6/19	6/19	6/19/08	Natural resources; other; operation of off-road vehicle by child; revise requirements for organized events. (Sen. R. Jelinek)
165	5221		Yes	6/19	6/19	6/19/08	Appropriations; zero budget; capital outlay; provide for fiscal year. (Rep. M. Hood)

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166		1256	Yes	6/26	6/26	6/26/08	Local government; other; protests and demonstrations at funerals; amend conditions for issuing permits. (Sen. R. Kahn)
167	5383		Yes	6/26	6/26	6/26/08	Public utilities; electric utilities; electric cooperative member-regulation act; create. (Rep. T. Brown)
168	5893		Yes	6/30	6/30	6/30/08	Business tax; other; deductions from certain taxpayer's tax bases for certain affordable housing projects; provide for. (Rep. S. Tobocman)
169		572	Yes	7/2	7/2	7/2/08	Natural resources; hunting; use of modified bows for hunting; allow commission of natural resources to regulate. (Sen. J. Barcia)
170		867	Yes	7/2	7/2	7/2/08	Economic development; plant rehabilitation; applications for industrial property; extend sunset. (Sen. C. Brown)
171	4817		Yes	7/2	7/2	7/2/08	Traffic control; parking; requirements for use of volunteers to enforce parking violations; modify. (Rep. K. Green)

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172	6121		Yes	7/2	7/2	7/2/08	Environmental protection; sewage; rules and regulations for the operation of a sewage treatment facility; allow publication of a summary. (Rep. T. Pearce)
173	4840		Yes	7/2	7/2	7/2/08	Health facilities; licensing; fees and assessments for certain health facilities; allow department to use for background check program under certain circumstances. (Rep. K. Law)
174	6094		Yes	7/2	7/2	7/2/08	Property; conveyances; certain state owned property in Ingham county; exchange for other property. (Rep. J. Bauer)
175		1380	Yes	7/8	7/8	7/8/08	State financing and management; funds; centers of energy excellence program; create and operate. (Sen. J. Allen)
176		754	Yes	7/9	7/9	7/9/08	Veterans; other; welcome home letters; require to include state-funded veterans service organizations. (Sen. R. Kahn)
177		1217	Yes	7/9	7/9	12/31/07	Business tax; other; purchases from other firms; include certain payments to subcontractors and direct material costs. (Sen. N. Cassis)

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178	6014		No	7/9	7/9	***	Watercraft; personal; age and time of personal watercraft operation; modify, and eliminate sunset. (Rep. T. Hammon)
179	5073		Yes	7/9	7/9	7/9/08 #	Water; conservation; water withdrawals; define adverse resource impacts and regulatory zones for purposes of regulation. (Rep. K. Law)
180	5069		Yes	7/9	7/9	7/9/08 #	Water; conservation; water withdrawals; prohibit diversions and provide for registration and permitting of certain large quantity withdrawals. (Rep. R. Warren)
181	5067		Yes	7/9	7/9	7/9/08 #	Water; conservation; water withdrawals; provide for site-specific reviews and a protocol for stream flow measurements. (Rep. T. Brown)
182	5066		Yes	7/9	7/9	7/9/08 #	Water; conservation; water withdrawals; provide for water conservation measures. (Rep. M. Meadows)
183	5065		Yes	7/9	7/9	7/9/08 #	Water; conservation; water withdrawals; prohibit withdrawals that result in an adverse resource impact and provide certain presumptions and exemptions. (Rep. G. McDowell)

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184	4343		Yes	7/9	7/9	7/9/08 #	Water; conservation; water withdrawals; provide duties for water resources assessment and education committees and water users committees. (Rep. K. Ebli)
185		860	Yes	7/9	7/9	7/9/08 #	Water; conservation; water withdrawal assessment tool; implement. (Sen. P. Birkholz)
186		859	Yes	7/9	7/9	10/7/08 #	Water; conservation; water withdrawal violations; provide penalties and remedies. (Sen. B. Patterson)
187		858	Yes	7/9	7/9	7/9/08 #	Water; conservation; water withdrawals; require certain community suppliers to conduct an evaluation. (Sen. G. Van Woerkom)
188		727	Yes	7/9	7/9	7/9/08 #	Water; conservation; water withdrawals; require producers of bottled drinking water to conduct an evaluation. (Sen. R. Basham)
189		723	Yes	7/9	7/9	7/9/08 #	Water; conservation; water resources conservation advisory council; create, and provide duties. (Sen. L. Brater)
190		212	Yes	7/9	7/9	7/9/08 #	Natural resources; Great Lakes; Great Lakes-St. Lawrence river basin water resources compact; ratify. (Sen. P. Birkholz)

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191	4330		Yes	7/9	7/10	7/10/08	Corrections; parole; requirement of GPS monitoring device for individuals convicted of aggravated stalking; provide for. (Rep. P. Condino)
192	4453		Yes	7/9	7/10	7/10/08	Crimes; domestic violence; GPS monitoring of defendants charged with domestic violence crimes and released on bail; provide for monitoring and notification. (Rep. B. Caul)
193		412	Yes	7/10	7/11	7/11/08	State financing and management; purchasing; requirement for state agencies to avoid purchasing products containing mercury under certain circumstances; implement. (Sen. R. Basham)
194		370	Yes	7/10	7/11	1/7/09 #	Weapons; licensing; requirement for post-purchase pistol safety inspection; eliminate for certain individuals, revise certain carrying requirements for certain individuals, and include motor carrier officers and capitol security officers as peace officers. (Sen. R. Richardville)

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195	4490		Yes	7/10	7/11	1/7/09 #	Weapons; licensing; requirement for post-purchase pistol safety inspection; eliminate. (Rep. P. Opsommer)
196	4491		Yes	7/10	7/11	1/7/09 #	Crimes; weapons; crime of failing to have pistol safety inspected after purchase; repeal, and eliminate certain other references to pistol safety inspections. (Rep. J. Sheltrown)
197	5833		Yes	7/10	7/11	7/11/08	Courts; funding; specified portion of unencumbered balance of the juror compensation reimbursement fund; transfer to general fund for 2007-2008 fiscal year. (Rep. M. Gillard)
198		1239	Yes	7/10	7/11	7/11/08	Property tax; principal residence exemption; county election to audit principal residence exemptions; revise. (Sen. C. Brown)
199		668	Yes	7/10	7/11	7/11/08	Family law; parental rights; termination of parental rights; clarify. (Sen. B. Hardiman)
200		669	Yes	7/10	7/11	7/11/08	Children; foster care; permanency plan and permanent placement of a child; clarify. (Sen. M. Jansen)
201		670	Yes	7/10	7/11	7/11/08	Children; protection; notice regarding termination of parental rights; revise. (Sen. G. Jacobs)

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202		671	Yes	7/10	7/11	7/11/08	Children; foster care; alternate permanency plan to be made concurrently with reasonable efforts to reunify child and family; allow. (Sen. R. Kahn)
203		672	Yes	7/10	7/11	7/11/08	Children; foster care; review of permanency plan; require. (Sen. M. Jansen)
204		975	Yes	7/10	7/11	7/11/08	Economic development; neighborhood enterprise zones; number of parcels in a neighborhood enterprise zone; modify. (Sen. R. Kahn)
205		346	Yes	7/10	7/11	1/1/09 #	Crimes; animals; person having control of dog or wolf-dog cross to provide certain information to person bitten by that dog or wolf-dog cross; require, and provide penalty for violation. (Sen. G. Van Woerkom)
206	4065		Yes	7/10	7/11	1/1/09 #	Crimes; animals; fleeing the scene of dog or wolf-dog cross bite incident or failing to provide assistance to bitten individual; prohibit, and provide penalties. (Rep. J. Mayes)
207		150	Yes	7/10	7/11	7/11/08	Income tax; credit; tax credit for donations of food items to food banks; allow. (Sen. J. Allen)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
208		388	Yes	7/10	7/14	9/30/08 #	State; escheats; application of unclaimed property act to gift cards; clarify. (Sen. N. Cassis)
209	4680		Yes	7/10	7/14	11/1/08 #	Trade; consumer goods and services; gift certificates; prohibit expiration within 5 years. (Rep. M. Sak)
210	4050		Yes	7/10	7/14	11/1/08 #	Trade; consumer goods and services; gift certificates and gift cards; prohibit certain conduct and require disclosures. (Rep. F. Miller)
211	4317		Yes	7/10	7/14	11/1/08 #	Trade; consumer goods and services; issuance of gift certificates and gift cards; prohibit service fees and certain other unfair trade practices. (Rep. M. Meadows)
212		1096	Yes	7/15	7/16	7/16/08	Appropriations; zero budget; department of education; provide for fiscal year 2008-2009. (Sen. R. Jelinek)
213		1099	Yes	7/15	7/16	7/16/08	Appropriations; zero budget; higher education; provide for fiscal year 2008-2009. (Sen. T. Stamas)
214	5812		Yes	7/15	7/16	7/16/08	Appropriations; military affairs; department of military and veterans affairs; provide for fiscal year 2008-2009. (Rep. R. LeBlanc)

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+ - Line item veto

- Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
215	4481		Yes	7/15	7/16	7/16/08	Children; foster care; foster care independence act that provides services for certain youth in foster care; create. (Rep. B. Clack)
216	4658		Yes	7/15	7/16	7/16/08	Housing; housing development authority; definition of downtown area; provide for. (Rep. S. Tobocman)
217	4950		Yes	7/15	7/16	7/16/08	Economic development; renaissance zones; definition of renewable energy; modify. (Rep. R. Dean)
218	5925		Yes	7/15	7/16	7/16/08	Liquor; licenses; issuance of small distiller license; provide for. (Rep. B. Byrum)
219		836	Yes	7/15	7/16	7/16/08	School aid; other; certain requirements for qualifying for state aid for certain shared time instruction between public schools and private schools; revise. (Sen. G. Van Woerkom)
220		658	Yes	7/15	7/16	7/16/08	Local government; financing; investments of gas and oil trust funds; expand options. (Sen. M. McManus)
221	5151		Yes	7/15	7/16		Single business tax; other; sourcing of receipts for mortgage companies; clarify. (Rep. S. Bieda)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
222	5681		Yes	7/15	7/16	7/16/08	Businesses; nonprofit corporations; nonprofit corporation act; allow certain electronic communication, define and impose requirements on charitable purpose corporations, and make other general changes. (Rep. S. Tobocman)
223	6208		Yes	7/15	7/16	7/16/08	State financing and management; funds; Michigan strategic fund; clarify certain loan programs. (Rep. E. Clemente)
224	5638		Yes	7/15	7/16	7/16/08	Economic development; other; appointments to Michigan strategic fund board; revise length of term. (Rep. A. Coulouris)
225		970	Yes	7/15	7/17	7/17/08	Economic development; downtown development authorities; retail business incubators; allow to establish and fund. (Sen. J. Allen)
226		972	Yes	7/15	7/17	7/17/08	Economic development; downtown development authorities; eligibility for certain low-interest loans; clarify, and allow downtown development authority to provide. (Sen. T. Hunter)

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227		974	Yes	7/15	7/17	7/17/08 #	Economic development; other; commercial redevelopment act; reauthorize for certain local governmental units. (Sen. R. Richardville)
228		976	Yes	7/15	7/17	7/17/08	Economic development; neighborhood enterprise zones; definition of a facility; expand to include certain eligible rental property. (Sen. J. Gilbert)
229		978	Yes	7/15	7/17	7/17/08	Natural resources; funding; Michigan natural resources trust fund; require consideration of funding trails that intersect downtown areas. (Sen. T. Stamas)
230		980	Yes	7/15	7/17	7/17/08	Property tax; personal property; exemption for certain new personal property; revise. (Sen. J. Pappageorge)
231		294	Yes	7/15	7/17	7/17/08	Economic development; other; commercial rehabilitation districts; establish incentives. (Sen. M. Jansen)
232	4903		Yes	7/15	7/17	7/17/08 #	Retirement; investments; investing assets in a corporation doing business with Iran; prohibit. (Rep. M. Knollenberg)

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233	4854		Yes	7/15	7/17	7/17/08 #	Retirement; investments; state funds in any Sudanese business or interest; require treasurer to divest. (Rep. A. Smith)
234		846	Yes	7/15	7/17	7/17/08 #	State financing and management; funds; divestment from terror act; enact. (Sen. C. Brown)
235		848	Yes	7/15	7/17	7/17/08 #	Veterans; trust fund; divestment requirements for the veterans trust fund; provide for. (Sen. J. Pappageorge)
236		849	Yes	7/15	7/17	7/17/08 #	State financing and management; funds; investment of funds under the natural resources and environmental protection act in compliance with certain requirements; provide for. (Sen. R. Richardville)
237		850	Yes	7/15	7/17	7/17/08 #	Higher education; community colleges; investing with companies doing business with certain countries that support international terrorism; prohibit. (Sen. D. Olshove)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
238		853	Yes	7/15	7/17	7/17/08 #	State financing and management; funds; investing children's trust funds in compliance with certain requirements; provide for. (Sen. H. Clarke)
239		856	Yes	7/15	7/17	7/17/08 #	Higher education; other; investing assets of Michigan education trust in companies doing business with certain countries that support international terrorism; prohibit. (Sen. M. Jansen)
240	4323		Yes	7/17	7/17	7/17/08 #	Natural resources; other; operation of off-road vehicles on road shoulders; allow local jurisdictions to approve and to provide for the creation of local funds for enforcement and environmental remediation. (Rep. J. Sheltrown)
241	5559		Yes	7/17	7/17	7/17/08 #	Insurance; no-fault; off-road vehicle; define, and exempt from no-fault in certain circumstances. (Rep. G. Polidori)
242		1206	Yes	7/17	7/17	7/17/08	Economic development; renaissance zones; effective date for certain renaissance zones; modify. (Sen. J. Allen)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
243		886	Yes	7/17	7/17	7/17/08	Property tax; principal residence exemption; active duty individual renting out principal residence while away; allow to retain exemption. (Sen. J. Gilbert)
244		1243	Yes	7/17	7/17	7/17/08	Housing; housing development authority; definition of downtown area community and housing development fund; provide for. (Sen. M. Jansen)
245		1095	Yes	7/18	7/18	7/18/08 +	Appropriations; corrections; department of corrections; provide for fiscal year 2008-2009. (Sen. A. Cropsey)
246		1094	Yes	7/17	7/18	7/18/08	Appropriations; zero budget; department of community health; provide for fiscal year 2008-2009. (Sen. R. Kahn)
247		1097	Yes	7/17	7/18	7/18/08 +	Appropriations; environmental quality; department of environmental quality; provide for fiscal year 2008-2009. (Sen. V. Garcia)
248	5814		Yes	7/17	7/18	7/18/08 +	Appropriations; human services; department of human services; provide for fiscal year 2008-2009. (Rep. D. Spade)
249	5811		Yes	7/17	7/18	7/18/08	Appropriations; state police; department of state police; provide for fiscal year 2008-2009. (Rep. R. LeBlanc)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
250	5810		Yes	7/17	7/18	7/18/08 +	Appropriations; judiciary; judiciary budget; provide for fiscal year 2008-2009. (Rep. M. Gillard)
251	5809		Yes	7/17	7/18	7/18/08 +	Appropriations; labor and economic growth; department of labor and economic growth; provide for fiscal year 2008-2009. (Rep. R. Hammel)
252		1106	Yes	7/17	7/18	7/18/08 +	Appropriations; zero budget; department of natural resources; provide for fiscal year 2008-2009. (Sen. M. McManus)
253	5807		Yes	7/17	7/18	7/18/08 +	Appropriations; agriculture; department of agriculture; provide for fiscal year 2008-2009. (Rep. J. Espinoza)
254	5804		Yes	7/17	7/18	7/18/08 +	Appropriations; history, arts, and libraries; department of history, arts, and libraries; provide for fiscal year 2008-2009. (Rep. A. Vagnozzi)
255		1093	Yes	7/17	7/18	7/18/08	Appropriations; zero budget; community colleges; provide for fiscal year 2008-2009. (Sen. B. Hardiman)
256		852	Yes	8/4	8/4	8/4/08 #	State financing and management; funds; investment of 21st century jobs trust funds in compliance with certain requirements; provide for. (Sen. V. Garcia)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
257		1367	Yes	8/4	8/4	8/4/08	Economic development; Michigan economic growth authority; definition of high-wage activity; implement. (Sen. J. Allen)
258		1351	Yes	8/4	8/4	8/4/08 #	Liquor; beer; issuance of special licenses to organizations for the conduct of certain beer festivals; provide for. (Sen. T. Hunter)
259		1352	Yes	8/4	8/4	8/4/08 #	Liquor; beer; direct sale of beer by brewpubs to special license holder; allow under certain circumstances. (Sen. J. Allen)
260		170	Yes	8/4	8/4	8/4/08 #	Children; guardians; relative guardianship assistance act; establish. (Sen. I. Clark-Coleman)
261	5816		Yes	8/5	8/6	8/6/08 +	Appropriations; general government; general government; provide for fiscal year 2008-2009. (Rep. M. Cheeks)
262		1270	Yes	8/6	8/6	8/6/08	Economic development; Michigan economic growth authority; eligibility for certain tax credits; clarify. (Sen. R. Kahn)
263	5972		Yes	8/6	8/6	8/6/08 #	Business tax; other; credit for certain companies based on consumption of energy; provide for. (Rep. A. Coulouris)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
264	5976		Yes	8/6	8/6	8/6/08 #	Business tax; other; amount of credit for the 2023 tax year for certain companies based on consumption of electricity; provide for. (Rep. K. Horn)
265		1267	Yes	8/6	8/6	8/6/08	Business tax; other; amount of credit for 2016 through 2021 tax years for certain companies based on consumption of electricity; provide for. (Sen. T. Stamas)
266		1268	Yes	8/6	8/6	8/6/08	Business tax; other; amount of credit for the 2022 tax year for certain companies based on consumption of electricity; provide for. (Sen. J. Barcia)
267	5973		Yes	8/6	8/6	8/6/08 #	Business tax; other; amount of credit for 2012 through 2015 tax years for certain companies based on consumption of electricity; provide for. (Rep. J. Mayes)
268		1107	Yes	8/6	8/6	8/6/08	Appropriations; school aid; fiscal year appropriations; provide for fiscal year 2008-2009. (Sen. R. Jelinek)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
269	6205		Yes	9/10	9/10	9/10/08	Higher education; financial aid; establishment of special reserve funds by higher education loan authority; authorize. (Rep. P. Byrnes)
270	5898		Yes	9/10	9/11	9/11/08	Business tax; other; tax credit for the construction and operation of a new facility for the development and manufacturing of photovoltaic energy; provide for. (Rep. J. Moolenaar)
271	5996		Yes	9/27	9/29	9/29/08	State financing and management; funds; investing surplus treasury funds in compliance with certain requirements; provide for. (Rep. G. Leland)
272	5997		Yes	9/27	9/29	9/29/08	State financing and management; funds; Michigan strategic funds in compliance with certain requirements; provide for. (Rep. K. Angerer)
273	5998		Yes	9/27	9/29	9/29/08	Retirement; investments; investing with companies doing business with certain countries; prohibit. (Rep. M. Valentine)
274	5999		Yes	9/27	9/29	9/29/08	State financing and management; funds; divestment requirements for state lottery fund; provide for. (Rep. A. Meisner)

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275	5808		Yes	9/27	9/29	9/29/08 +	Appropriations; transportation; department of transportation; provide for fiscal year 2008-2009. (Rep. L. Gonzales)
276	6091		Yes	9/27	9/29	9/29/08	Environmental protection; permits; certain land and water permit fees; extend sunsets. (Rep. D. Bennett)
277	5834		Yes	9/27	9/29	9/29/08	Health facilities; quality assurance assessments; state retention amount from federal funds generated through hospital and nursing home assessments; revise appropriation, and repeal boilerplate from fiscal year 2008-2009 budget. (Rep. G. McDowell)
278		511	Yes	9/29	9/29	9/29/08	Appropriations; supplemental; multidepartment supplemental for fiscal years 2007 and 2008; provide for. (Sen. R. Jelinek)
279		1111	Yes	9/29	9/29	9/29/08	Appropriations; zero budget; supplemental appropriations; provide for fiscal years 2007-2008 and 2008-2009. (Sen. R. Jelinek)
280		1464	Yes	9/29	9/29	9/29/08	Transportation; funds; distribution of revenue from collection of certain registration transfer fees; extend sunset. (Sen. M. Switalski)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
281		1465	Yes	9/29	9/29	9/29/08	Transportation; funds; distribution of revenue collected to expedite title application process; extend sunset. (Sen. M. Switalski)
282	6059		Yes	9/29	9/29	9/29/08	Gaming; other; distribution of funds in the compulsive gaming prevention act; modify. (Rep. G. McDowell)
283	5249		Yes	9/29	9/29	9/29/08	Insurance; other; collection of quality assurance assessment fees; remove sunset. (Rep. M. Gillard)
284	6032		Yes	9/29	9/29	9/29/08	Economic development; neighborhood enterprise zones; application to be forwarded to assessor of the local governmental unit; provide for. (Rep. B. Byrum)
285	5896		Yes	9/29	9/29	9/29/08	Property tax; personal property; new personal property of certain eligible taxpayers; exempt. (Rep. E. Clemente)
286	5524		Yes	10/6	10/6	10/6/08 #	Public utilities; other; general amendments to 1939 PA 3; provide for. (Rep. F. Accavitti)

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287		1048	Yes	10/6	10/6	10/6/08 #	Income tax; credit; purchase of certain energy efficient qualified home improvements and percentage of additional charges authorized under the clean, renewable, and efficient energy act; provide for. (Sen. P. Birkholz)
288	4001		Yes	10/6	10/6	10/6/08 #	Public employees and officers; ethics; disclosure of contributions to legal defense funds for elected officials; require. (Rep. S. Bieda)
289		1263	Yes	10/6	10/6	10/6/08 #	Occupations; lobbyists; definition of gift; revise regarding legal defense funds, and clarify issuance of process for declaratory rulings. (Sen. M. McManus)
290	5686		Yes	10/6	10/6	10/6/08	Animals; other; removal, capture, or lethal control of a gray wolf preying upon livestock; permit under certain circumstances. (Rep. M. Lahti)
291	6271		Yes	10/6	10/6	10/6/08	Natural resources; fishing; season for spearing certain fish; allow department to regulate. (Rep. S. Lindberg)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
292		943	Yes	10/6	10/6	10/6/08	Highways; name; certain portion of M-72 and certain portion of M-10; designate as the "Hazen Shirley 'Kiki' Cuyler Memorial Highway" and the "George Edward (Ted) Seman Memorial Highway" respectively. (Sen. T. Stamas)
293		338	Yes	10/6	10/6	10/6/08	Natural resources; other; gift cards issued by department of natural resources; expand types of transactions for which gift cards may be used. (Sen. M. McManus)
294		1304	Yes	10/6	10/6	10/6/08	State financing and management; bonds; public hospital funding under the hospital finance authority act; allow. (Sen. T. Stamas)
295		213	Yes	10/6	10/6	10/6/08 #	Energy; alternative sources; alternative sources of energy; require certain providers to utilize and to conduct conservation, efficiency, and net metering programs, and provide for wind zones and state government energy usage practices. (Sen. P. Birkholz)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
296	4468		Yes	10/8	10/8	10/8/08	Crimes; vehicle offenses; motor vehicle operator committing moving violation injuring or causing death to another person in a work zone; amend applicability. (Rep. P. Byrnes)
297	4469		Yes	10/8	10/8	10/8/08 #	Criminal procedure; sentencing guidelines; crime of causing injury or death to another person in a work zone; amend to reflect applicability of prohibition. (Rep. B. Byrum)
298	5351		Yes	10/8	10/8	10/8/08	Traffic control; traffic regulation; certain individuals to direct traffic within work zone; allow, and require compliance by operators of motor vehicles. (Rep. P. Byrnes)
299	6133		Yes	10/8	10/8	10/8/08	Taxation; other; withdrawal penalty; modify. (Rep. M. Lahti)
300		1418	Yes	10/8	10/8	10/8/08	Children; protection; coordination between friend of the court and department of human services; require. (Sen. M. Jansen)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E. * Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
Veto	4749					6/13/08	Vehicles; motorcycles; requirement of wearing crash helmets; increase penalty, create exception, and provide for a no-helmet permit and sticker under certain circumstances. (Rep. B. Farrah)
Veto		776				6/13/08	Health; abortion; partial-birth abortions; prohibit. (Sen. C. Brown)

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MICHIGAN ADMINISTRATIVE CODE TABLE
(2008 SESSION)

MCL 24.208 states in part:

“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(i) Other official information considered necessary or appropriate by the State Office of Administrative Hearings and Rules.”

The following table cites administrative rules promulgated during the year 2000, and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).

**MICHIGAN ADMINISTRATIVE CODE TABLE
(2008 RULE FILINGS)**

R Number	Action	2008 MR Issue	R Number	Action	2008 MR Issue	R Number	Action	2008 MR Issue
28.4301	R	8	28.14313	A	8	29.6040	A	12
28.4302	R	8	28.14314	A	8	29.6041	A	12
28.4303	R	8	28.14315	A	8	29.6042	A	12
28.4304	R	8	28.14316	A	8	29.6043	A	12
28.4305	R	8	28.14317	A	8	29.6044	A	12
28.4306	R	8	28.14318	A	8	29.6045	A	12
28.4307	R	8	28.14319	A	8	29.6046	A	12
28.4308	R	8	28.14320	A	8	29.6047	A	12
28.4309	R	8	28.14321	A	8	29.6048	A	12
28.4310	R	8	29.2101	*	12	29.6049	A	12
28.4311	R	8	29.2103	*	12	29.6050	A	12
28.4351	R	8	29.2107	*	12	29.6051	A	12
28.4352	R	8	29.2109	*	12	29.6052	A	12
28.4353	R	8	29.2111	*	12	29.6053	A	12
28.4354	R	8	29.2113	*	12	29.6054	A	12
28.4355	R	8	29.4001	R	12	29.6055	A	12
28.4356	R	8	29.4002	R	12	29.6056	A	12
28.4357	R	8	29.4003	R	12	29.6057	A	12
28.4358	R	8	29.4021	R	12	29.6058	A	12
28.4359	R	8	29.4022	R	12	29.6059	A	12
28.4360	R	8	29.4023	R	12	29.6060	A	12
28.4361	R	8	29.4024	R	12	29.6061	A	12
28.4362	R	8	29.4025	R	12	29.6062	A	12
28.4363	R	8	29.4026	R	12	29.6063	A	12
28.4364	R	8	29.4027	R	12	29.6064	A	12
28.4365	R	8	29.4028	R	12	29.6065	A	12
28.4366	R	8	29.4029	R	12	29.6066	A	12
28.14301	A	8	29.4030	R	12	29.6067	A	12
28.14302	A	8	29.4031	R	12	29.6068	A	12
28.14303	A	8	29.4032	R	12	29.6069	A	12
28.14304	A	8	29.4033	R	12	29.6070	A	12
28.14305	A	8	29.4034	R	12	29.6071	A	12
28.14306	A	8	29.4035	R	12	29.6072	A	12
28.14307	A	8	29.6001	A	12	29.6073	A	12
28.14308	A	8	29.6002	A	12	29.6074	A	12
28.14309	A	8	29.6036	A	12	29.6075	A	12
28.14310	A	8	29.6037	A	12	29.6076	A	12
28.14311	A	8	29.6038	A	12	29.6077	A	12
28.14312	A	8	29.6039	A	12	29.6078	A	12

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

**MICHIGAN ADMINISTRATIVE CODE TABLE
(2008 RULE FILINGS)**

R Number	Action	2008 MR Issue	R Number	Action	2008 MR Issue	R Number	Action	2008 MR Issue
29.6079	A	12	29.7028	A	8	29.7067	A	8
29.6080	A	12	29.7029	A	8	29.7068	A	8
29.6081	A	12	29.7030	A	8	29.7069	A	8
29.6082	A	12	29.7031	A	8	29.7070	A	8
29.6083	A	12	29.7032	A	8	29.7071	A	8
29.6084	A	12	29.7033	A	8	29.7072	A	8
29.6085	A	12	29.7034	A	8	29.7073	A	8
29.6086	A	12	29.7035	A	8	29.7074	A	8
29.6087	A	12	29.7036	A	8	29.7075	A	8
29.6088	A	12	29.7037	A	8	29.7076	A	8
29.6089	A	12	29.7038	A	8	29.7077	A	8
29.6090	A	12	29.7039	A	8	29.7078	A	8
29.6091	A	12	29.7040	A	8	29.7079	A	8
29.6092	A	12	29.7041	A	8	29.7080	A	8
29.6093	A	12	29.7042	A	8	29.7081	A	8
29.6094	A	12	29.7043	A	8	29.7082	A	8
29.6095	A	12	29.7044	A	8	29.7083	A	8
29.6096	A	12	29.7045	A	8	29.7084	A	8
29.6097	A	12	29.7046	A	8	29.7085	A	8
29.7001	A	8	29.7047	A	8	29.7086	A	8
29.7002	A	8	29.7048	A	8	29.7087	A	8
29.7010	A	8	29.7049	A	8	29.7088	A	8
29.7011	A	8	29.7050	A	8	29.7089	A	8
29.7012	A	8	29.7051	A	8	29.7090	A	8
29.7013	A	8	29.7052	A	8	29.7091	A	8
29.7014	A	8	29.7053	A	8	29.7092	A	8
29.7015	A	8	29.7054	A	8	29.7093	A	8
29.7016	A	8	29.7055	A	8	29.7094	A	8
29.7017	A	8	29.7056	A	8	29.7095	A	8
29.7018	A	8	29.7057	A	8	29.7096	A	8
29.7019	A	8	29.7058	A	8	29.7097	A	8
29.7020	A	8	29.7059	A	8	29.7098	A	8
29.7021	A	8	29.7060	A	8	29.7099	A	8
29.7022	A	8	29.7061	A	8	29.7100	A	8
29.7023	A	8	29.7062	A	8	29.7101	A	8
29.7024	A	8	29.7063	A	8	29.7102	A	8
29.7025	A	8	29.7064	A	8	29.7103	A	8
29.7026	A	8	29.7065	A	8	29.7104	A	8
29.7027	A	8	29.7066	A	8	29.7105	A	8

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

**MICHIGAN ADMINISTRATIVE CODE TABLE
(2008 RULE FILINGS)**

R Number	Action	2008 MR Issue	R Number	Action	2008 MR Issue	R Number	Action	2008 MR Issue
29.7106	A	8	38.28	A	8	38.86	A	8
29.7107	A	8	38.29	A	8	125.190	A	15
29.7108	A	8	38.30	A	8	125.191	A	15
29.7109	A	8	38.31	A	8	125.192	A	15
29.7110	A	8	38.32	A	8	125.193	A	15
29.7111	A	8	38.33	A	8	125.194	A	15
29.7112	A	8	38.34	A	8	125.195	A	15
29.7113	A	8	38.35	A	8	125.196	A	15
29.7114	A	8	38.36	A	8	125.197	A	15
29.7115	A	8	38.37	A	8	125.199	A	15
29.7116	A	8	38.38	A	8	125.1101	*	11
29.7117	A	8	38.39	A	8	125.1102	A	11
29.7118	A	8	38.40	A	8	125.1120	*	11
29.7119	A	8	38.41	A	8	125.1125	*	11
29.7120	A	8	38.42	A	8	125.1130	*	11
29.7121	A	8	38.43	A	8	125.1175	*	11
29.7122	A	8	38.44	A	8	125.1185	*	11
29.7123	A	8	38.45	A	8	125.1192	*	11
29.7124	A	8	38.46	A	8	125.1202b	*	11
29.7125	A	8	38.47	A	8	125.1212	*	11
29.7126	A	8	38.48	A	8	125.1213a	*	11
29.7127	A	8	38.49	A	8	125.1214	*	11
38.1	R	8	38.50	A	8	125.1214d	*	11
38.2	R	8	38.51	A	8	125.1214f	*	11
38.3	R	8	38.71	A	8	125.1214i	*	11
38.4	R	8	38.72	A	8	125.1214l	R	11
38.5	R	8	38.73	A	8	125.1214n	*	11
38.6	R	8	38.74	A	8	125.1303	*	11
38.7	R	8	38.75	A	8	125.1305	*	11
38.8	R	8	38.76	A	8	125.1401	*	11
38.11	R	8	38.77	A	8	125.1403	*	11
38.12	R	8	38.78	A	8	125.1408	*	11
38.21	A	8	38.79	A	8	125.1602	*	11
38.22	A	8	38.80	A	8	125.1605	*	11
38.23	A	8	38.81	A	8	125.1610	*	11
38.24	A	8	38.82	A	8	125.1701	*	11
38.25	A	8	38.83	A	8	125.1701a	A	11
38.26	A	8	38.84	A	8	125.1702a	*	11
38.27	A	8	38.85	A	8	125.1703	A	11

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

**MICHIGAN ADMINISTRATIVE CODE TABLE
(2008 RULE FILINGS)**

R Number	Action	2008 MR Issue	R Number	Action	2008 MR Issue	R Number	Action	2008 MR Issue
125.1705	*	11	285.637.14	*	4	299.9607	*	5
125.1711	A	11	285.637.15	*	4	299.9608	*	5
125.1712	A	11	285.637.17	*	4	299.9609	*	5
125.1713	A	11	299.6012	A	11	299.9610	*	5
125.1714	A	11	299.9101	*	5	299.9612	*	5
125.1715	A	11	299.9102	*	5	299.9613	*	5
125.1716	A	11	299.9104	*	5	299.9615	*	5
125.1717	A	11	299.9105	*	5	299.9623	*	5
125.1718	A	11	299.9203	*	5	299.9629	*	5
125.1719	A	11	299.9204	*	5	299.964	*	5
125.1720	A	11	299.9207	*	5	299.9705	*	5
125.1901	*	11	299.9212	*	5	299.9710	*	5
125.1904a	*	11	299.9222	*	5	299.9808	*	5
125.1905	*	11	299.9224	*	5	299.11001	*	5
125.1906	*	11	299.9225	*	5	299.11002	*	5
125.1908	*	11	299.9226	*	5	299.11003	*	5
125.1920	*	11	299.9227	*	5	299.11004	*	5
125.1922	*	11	299.9228	*	5	299.11005	*	5
125.1940a	*	11	299.9231	A	5	299.11009	A	5
125.1947a	*	11	299.9304	*	5	322.73	A	5
125.1950	*	11	299.9305	*	5	323.1314	R	19
125.2001	*	11	299.9306	*	5	325.3347	R	11
125.2001a	*	11	299.9307	*	5	325.3348	R	11
125.2005a	*	11	299.9308	*	5	325.3349	R	11
125.2006a	*	11	299.9309	*	5	325.3351	R	11
257.1603	*	2	299.9310	*	5	325.3353	R	11
285.637.1	*	4	299.9401	*	5	325.3361	R	11
285.637.2	*	4	299.9404	*	5	325.3363	R	11
285.637.3	*	4	299.9405	*	5	325.3371	R	11
285.637.4	*	4	299.9409	*	5	325.3372	R	11
285.637.5	*	4	299.9405	*	5	325.51131	A	13
285.637.6	*	4	299.9409	*	5	325.51132	A	13
285.637.7	*	4	299.9503	*	5	325.51133	A	13
285.637.8	*	4	299.9408	*	5	325.51134	A	13
285.637.9	*	4	299.9409	*	5	325.51135	A	13
285.637.10	*	4	299.9503	*	5	325.51136	A	13
285.637.11	*	4	299.9519	*	5	325.51137	A	13
285.637.12	*	4	299.9521	*	5	325.51138	A	13
285.637.13	*	4	299.9605	*	5	325.51139	A	13
						325.51140	A	13

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

**MICHIGAN ADMINISTRATIVE CODE TABLE
(2008 RULE FILINGS)**

R Number	Action	2008 MR Issue	R Number	Action	2008 MR Issue	R Number	Action	2008 MR Issue
325.51141	A	13	336.1902	A	17	339.16003	*	4
325.51142	A	13	336.1940	*	17	339.16021	*	4
325.51143	A	13	336.1941	*	17	339.16025	*	4
336.1102	*	6	336.1942	*	17	339.16026	A	4
336.1103	*	6	336.1943	A	17	340.1	*	18
336.1104	*	6	336.1944	A	17	340.2	*	18
336.1105	*	6	336.1945	A	17	340.3	*	18
336.1109	*	6	336.1946	A	17	340.4	*	18
336.1112	*	6	336.1947	A	17	340.5	R	18
336.1113	*	6	336.1970	A	17	340.6	R	18
336.1114	*	6	336.1971	A	17	340.7	*	18
336.1122	*	6	336.2801	*	17	340.10	*	18
336.1201	*	12	336.2816	*	17	340.10a	A	18
336.1202	*	12	336.2818	*	17	340.11	*	18
336.1205	*	12	336.2901	A	12	340.12	*	18
336.1207	*	12	336.2901a	A	12	340.13	*	18
336.1211	*	12	336.2902	A	12	340.14	*	18
336.1213	*	12	336.2903	A	12	340.15	*	18
336.1214	*	12	336.2907	A	12	340.16	*	18
336.1214a	*	12	336.2908	A	12	340.17	*	18
336.1219	*	12	336.2910	A	12	340.18	A	18
336.1220	R	12	338.1521a	A	11	340.311	R	21
336.1240	*	12	338.1560	A	11	340.1701	*	17
336.1241	*	12	338.1562	A	11	340.1701a	*	17
336.1277	A	12	338.3051	A	18	340.1701b	*	17
336.1278	*	12	338.3052	A	18	340.1701c	*	17
336.1281	*	12	338.3053	A	18	340.1713	*	17
336.1284	*	12	338.3054	A	18	340.1721e	*	17
336.1285	*	12	338.3055	A	18	340.1722a	*	17
336.1288	*	12	338.3056	A	18	340.1722e	*	17
336.1299	*	12	338.3901	*	18	340.1723c	*	17
336.1401	*	2	338.3902	*	18	340.1724	*	17
336.1401a	A	2	338.3903	*	18	340.1724a	R	17
336.1402	*	2	338.3905	*	18	340.1724c	R	17
336.1404	*	2	338.3906	*	18	340.1724d	*	17
336.1405	A	2	338.3906a	A	18	340.1724e	R	17
336.1406	A	2	338.3908	*	18	340.1724f	*	17
336.1407	A	2	338.3910	A	18	340.1724g	R	17
336.1420	A	2	339.16001	*	4	340.1724h	*	17

(* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)

**MICHIGAN ADMINISTRATIVE CODE TABLE
(2008 RULE FILINGS)**

R Number	Action	2008 MR Issue	R Number	Action	2008 MR Issue	R Number	Action	2008 MR Issue
340.1724i	*	17	380.132	*	9	408.7019	A	9
340.1738	*	17	380.133	*	9	408.10501	*	11
340.1748	*	17	380.134	*	9	408.10502	*	11
340.1771	*	17	380.135	R	9	408.10509	A	11
340.1772	*	17	380.136	*	9	408.10511	*	11
340.1790	*	17	380.1201	A	9	408.10513	*	11
340.1810	*	17	388.221	R	21	408.10526	*	11
340.1832	*	17	388.222	R	21	408.10528	*	11
340.1837	*	17	388.223	R	21	408.10532	*	11
340.1861	*	17	388.224	R	21	408.10546	*	11
380.101	*	9	388.225	R	21	408.10547	R	11
380.102	*	9	388.226	R	21	408.10561	*	11
380.103	*	9	388.228	R	21	408.10565	*	11
380.104	*	9	388.229	R	21	408.10568	*	11
380.105	*	9	388.230	R	21	408.10569	*	11
380.106	*	9	388.231	R	21	408.10575	*	11
380.107	*	9	388.261	R	21	408.10592	*	11
380.108	R	9	388.262	R	21	408.15801	*	11
380.109	*	9	388.263	R	21	408.15802	A	11
380.110	A	9	388.264	R	21	408.15803	*	11
380.111	*	9	388.265	R	21	408.15804	*	11
380.111a	A	9	390.621	R	21	408.15805	*	11
380.111b	A	9	390.1251	*	9	408.15810	A	11
380.112	*	9	400.5101	*	11	408.15811	*	11
380.113	R	9	400.5102	*	11	408.15812	*	11
380.114	A	9	400.5102a	*	11	408.15815	A	11
380.115	A	9	400.5103a	*	11	408.15817	A	11
380.116	A	9	400.5104b	*	11	408.15821	*	11
380.121	*	9	400.5105	*	11	408.15823	R	11
380.122	R	9	400.5109	*	11	408.15824	R	11
380.123	*	9	400.5117	*	11	408.15825	*	11
380.124	*	9	400.5202a	*	11	408.15830	R	11
380.125	R	9	400.5204	*	11	408.15831	*	11
380.126	*	9	400.5206	*	11	408.15832	*	11
380.127	*	9	400.5302	*	11	408.15833	*	11
380.128	*	9	400.5307	*	11	408.15836	A	11
380.129	*	9	400.5805	*	11	408.15839	A	11
380.130	R	9	400.5825	*	11	408.15842	A	11
380.131	R	9	408.62	A	18	408.30401	*	6

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

**MICHIGAN ADMINISTRATIVE CODE TABLE
(2008 RULE FILINGS)**

R Number	Action	2008 MR Issue	R Number	Action	2008 MR Issue	R Number	Action	2008 MR Issue
408.30401a	A	6	408.30512	*	6	408.30574	*	6
408.30404	*	6	408.30513	*	6	408.30575	*	6
408.30405	*	6	408.30514	*	6	408.30576	*	6
408.30408	*	6	408.30516	*	6	408.30577	*	6
408.30410	*	6	408.30518	*	6	408.31059	A	20
408.30411	*	6	408.30520	*	6	408.31060	A	20
408.30412	*	6	408.30521	*	6	408.31061	*	20
408.30414	*	6	408.30522	*	6	408.31062	*	20
408.30415a	*	6	408.30522a	*	6	408.31063	*	20
408.30417	R	6	408.30523	*	6	408.31064	*	20
408.30418	*	6	408.30525	*	6	408.31065	*	20
408.30421	*	6	408.30526	*	6	408.31066	*	20
408.30427	*	6	408.30528	*	6	408.31069	A	20
408.30429	*	6	408.30529	*	6	408.31070	*	20
408.30432	*	6	408.30530	*	6	408.31071	R	20
408.30437	*	6	408.30531	*	6	408.31072	R	20
408.30442	A	6	408.30534	*	6	408.31073	R	20
408.30444	R	6	408.30536	*	6	408.31074	R	20
408.30445	*	6	408.30539	*	6	408.31075	R	20
408.30446	*	6	408.30540	*	6	408.31076	R	20
408.30447	*	6	408.30543	*	6	408.31077	R	20
408.30448	*	6	408.30544	*	6	408.31078	R	20
408.30449	*	6	408.30545	*	6	408.31079	R	20
408.30451c	*	6	408.30546	*	6	408.31080	R	20
408.30457	*	6	408.30547	*	6	408.31081	R	20
408.30458	*	6	408.30551	*	6	408.31082	R	20
408.30459	A	6	408.30556	*	6	408.31083	R	20
408.30475	*	6	408.30557	*	6	408.31084	R	20
408.30495	*	6	408.30561	*	6	408.31085	R	20
408.30499	*	6	408.30562	*	6	408.31086	R	20
408.30503	*	6	408.30564	*	6	408.43201	*	5
408.30504	*	6	408.30565	*	6	408.43202	*	5
408.30505	*	6	408.30566	*	6	408.43203	*	5
408.30506	*	6	408.30568	*	6	408.43204	*	5
408.30507	*	6	408.30569	*	6	408.43204a	A	5
408.30508	*	6	408.30570	*	6	408.43205	*	5
408.30509	*	6	408.30571	*	6	408.43206	*	5
408.30510	*	6	408.30572	*	6	408.43208	*	5
408.30511	*	6	408.30573	*	6	408.43209	*	5

(* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)

MICHIGAN ADMINISTRATIVE CODE TABLE
(2008 RULE FILINGS)

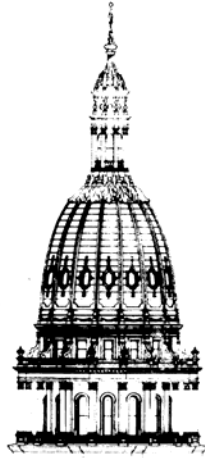
R Number	Action	2008 MR Issue	R Number	Action	2008 MR Issue	R Number	Action	2008 MR Issue
408.43210	R	5	460.1602	N	10	460.2072	R	10
408.43212	A	5	460.1603	N	10	460.2074	R	10
408.43214	A	5	460.1604	N	10	460.2075	R	10
408.43216	A	5	460.1605	N	10	460.2076	R	10
408.43218	A	5	460.1606	N	10	460.2077	R	10
408.43220	A	5	460.1607	N	10	460.2078	R	10
418.10104	*	4	460.1608	N	10	460.2079	R	10
418.10107	*	4	460.1609	N	10	460.2080	R	10
418.10504	*	4	460.1610	N	10	460.2081	R	10
418.10901	*	4	460.1611	N	10	460.2082	R	10
418.10902	*	4	460.1612	N	10	460.2083	R	10
418.10909	*	4	460.1613	N	10	460.2084	R	10
418.10912	*	4	460.1614	N	10	460.2085	R	10
418.10913	*	4	460.1615	N	10	460.2086	R	10
418.10921	*	4	460.1616	N	10	460.3102	*	10
418.10922	*	4	460.1617	N	10	460.3306	R	10
418.10923	*	4	460.1618	N	10	460.3308	*	10
418.10923b	*	4	460.1619	N	10	460.3401	R	10
418.10925	*	4	460.1620	N	10	460.3402	R	10
418.101002a	*	4	460.1621	N	10	460.3403	R	10
418.101003	*	4	460.1622	N	10	460.3404	R	10
418.101003a	A	4	460.1623	N	10	460.3406	R	10
418.101005	*	4	460.1624	N	10	460.3407	R	10
418.101015	*	4	460.1625	N	10	460.3602	*	10
418.101023	*	4	460.1626	N	10	460.3605	*	10
432.1401	*	10	460.1628	N	10	460.3607	*	10
432.1402	*	10	460.1629	N	10	460.3609	*	10
432.1403	*	10	460.1630	N	10	460.3610	*	10
432.1404	*	10	460.1631	N	10	460.3612	*	10
432.1405	*	10	460.1632	N	10	460.3613	*	10
432.1406	*	10	460.1633	N	10	460.3901	R	10
432.1407	*	10	460.1634	N	10	460.3902	R	10
432.1714	A	10	460.1635	N	10	460.3903	R	10
432.1715	A	10	460.1636	N	10	460.3904	R	10
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560.110	A	10
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560.116	A	10
560.117	A	10
560.118	A	10
560.119	A	10
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